Agenda

for the

Planning & Amenity Committee Meeting

To be held at the Council Chambers, Civic Centre, Boxshall Street Brighton

on

Thursday, 2 November, 2017 at 7.00pm

Chairperson: Cr Laurence Evans

Councillors: Cr Alex del Porto (Mayor)
Cr Michael Heffernan
Cr James Long BM JP
Cr Clarke Martin
Cr Rob Grinter
Cr Sonia Castelli
Members of the Gallery

Your attention is drawn to Section 92 of Council's Governance Local Law No 1.

Section 92 The Chair's Duties and Discretions

In addition to other duties and discretions provided in this Local Law, the Chair –

(a) must not accept any motion, question or statement which is derogatory, or defamatory of any Councillor, member of Council staff, or member of the community.

(b) may demand retraction of any inappropriate statement or unsubstantiated allegation;

(c) must ensure silence is preserved in the public gallery during any meeting

(d) must call to order any member of the public who approaches the Council or Committee table during the meeting, unless invited by the Chair to do so; and

(e) must call to order any person who is disruptive or unruly during any meeting.

An Authorised Officer must, if directed to do so by the Chairman, remove from a meeting any Councillor or other person who has committed such an offence.

Your cooperation is appreciated

Chairperson of Council
Planning & Amenity Committee Meeting

Planning & Amenity Committee Charter
To deal with all matters relating to consideration of statutory planning, tree removal applications, traffic and parking matters.

This Committee has the full delegated authority of Council to finally determine upon planning applications.

Membership of the Committee
All Councillors

Order of Business

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2. Declarations of Interest
3. Adoption and Confirmation of the minutes of previous meeting
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5.  Confidential Business

Nil

**Next Meetings 2017**

- Tuesday 14 November 2017
- Tuesday 28 November 2017
- Monday 11 December 2017
- Thursday 21 December 2017
1. Apologies

2. Declarations of Interest

3. Adoption and Confirmation of the minutes of previous meeting

   3.1 Confirmation of the Minutes of the Planning & Amenity Committee Meeting held on 17 October 2017.
This matter has been reported to the Planning and Amenity Committee for a decision as a result of Councillor call-in.

1. Purpose and background

To report a planning permit application for the construction of a dwelling on a lot with an area of 461 square metres (refer Attachment 1) at 6 Ruxton Rise, Beaumaris (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Trusch Design Pty Ltd</th>
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<tbody>
<tr>
<td>Date application received</td>
<td>28 April 2017</td>
</tr>
<tr>
<td>Statutory days expires</td>
<td>19 October 2017</td>
</tr>
</tbody>
</table>

Site History

Planning permit 2014/516 was granted on the 17 March 2015 at the direction of the Victorian Civil and Administrative Tribunal (VCAT) for the subdivision of the former Beaumaris RSL site at 489 Balcombe Road into 20 lots, removal of vegetation, alteration of access to a Category 1 Road Zone and variation and removal of easements.

The permit was amended via Section 72 of the Planning and Environment Act 1987 on the 13 October 2015 for minor amendments to the conditions. The permit was amended again via Section 71 of the Planning and Environment Act 1987 on the 5 November 2015 to correct a minor clerical error in the original drafting of the conditions.

Individual titles for the 20 lots have been issued. A number of the conditions of the subdivision permit, the endorsed plans and a Section 173 agreement lodged on all titles place restrictions on the development of each site. These are discussed later in the report.

Subdivision plans have been endorsed that direct a number of aspects of the development of individual sites, including the provision of building envelopes and maximum building heights.

A landscape concept plan has also been endorsed for the larger site. All landscape plans for individual lots must be consistent with the landscape concept plan.

The section 173 agreement on each title imparts obligations on the owner in relation to the building envelope, height of development and tree protection fencing, and requires landscape plans to be prepared for each site and arborist reports where trees are to be retained.

It is noted the original Section 173 agreement did not allow works outside of the building envelope. This prohibited all works that would normally be associated with a dwelling including site cuts, driveways and letterboxes from occurring outside the building envelope. It is acknowledged this was over and above the intent of the building envelopes as decided by the VCAT decision and an amended Section 173 agreement was re-drafted that reflects the intent of the VCAT decision and community expectations for the development of the site, while enabling landowners to reasonably develop each
site. The amended section 173 was signed by all owners and Council and registered on all titles on the 21 June 2017 (Dealing No. AN936521R).

2. Policy implications

   Planning permit requirements

   Clause 32.09-6 (Neighbourhood Residential Zone) – Construction of a dwelling on a lot less than 500 square metres.

3. Stakeholder Consultation

   External referrals

   There were no external referrals required to be made in accordance with Clause 66 of the Bayside Planning Scheme.

   Internal referrals

   The application was referred to the following Council departments for comment:

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drainage</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
</tbody>
</table>

   Public notification

   The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and one objection was received. The following concerns were raised:

   - Upper floor is not compliant with ResCode; and
   - Maximum heights are not clearly shown.

   Consultation meeting

   The applicant declined a consultation meeting. Instead they undertook informal consultation with the objector, before requesting the application advance to be heard by the planning and amenity committee. The objection was conditionally withdrawn but the planning department is unable to accept conditional withdrawals. As such, the objection remains.

4. Recommendation

   That Council:

   Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning Application 2017/227/1 for the land known and described as 6 Ruxton Rise, Beaumaris, for the construction of a dwelling on lot less than 500 square metres in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

   1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the application plans submitted 11 August 2017 but modified to show:

      a) The south facing wall of the loft/studio to be inset an additional 140mm from the rear boundary.
      b) The north facing wall of Bedroom 2 to be inset an additional 80mm minimum
to comply with the variation to Standard A10 from Schedule 3 to the Neighbourhood Residential Zone.

c) Measures required to treat overlooking of 25B Bolton Street from the south-facing windows to Bedroom 1 to comply with Standard A15.

d) The distance to the eastern boundary to be notated on the loft floor plan sheet.

e) Correction of the notation on the west elevation to read ‘max ht. 6.500m above adj NGL@ 3.750m setback from side boundary’.

f) The garage door facing the Ruxton Rise streetscape to be clad in a vertical timber finish or comparable natural materials.

g) A longitudinal section of the driveway showing the grade and length of grades in accordance with AS2890.1.


i) A schedule of construction materials, external finishes and colours (incorporating for example paint samples).

j) A Water Sensitive Urban Design response in accordance with Condition 7 of this permit.

2. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

3. Before the occupation of the site commences or by such later as is approved in writing by the Responsible Authority, all buildings and works must be carried out and completed to the satisfaction of the Responsible Authority.

4. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.

5. All pipes (excluding downpipes), fixtures, fitting and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

6. Before occupation, screening of windows and roof decks including fixed privacy screens be designed to limit overlooking as required by Standard A15 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

7. Before the development starts, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must show:

a) The type of water sensitive urban design stormwater treatment measures to be used.

b) The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaped areas.

c) Design details of the water sensitive urban design stormwater treatment measures, including cross sections.

These plans must be accompanied by a report from an industry accepted performance measurement tool which details the treatment performance.
achieved and demonstrates the level of compliance with the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999.

8. Before the occupation of the development starts, the areas set aside for vehicle parking and accessways must be constructed, drained and line marked to the satisfaction of Responsible Authority. Such areas must be kept available for these purposes at all times.

9. Before the occupation of the development starts, new or altered vehicle crossing servicing the development must be constructed to the satisfaction of the Responsible Authority and any existing disused or redundant crossing or crossing opening must be removed and replaced with footpath/nature strip/kerb and channel, to the satisfaction of the Responsible Authority.

10. Prior to the commencement of development, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape plan, prepared by John Patrick Landscape Architects Pty Ltd and dated November 2016, and be drawn to scale with dimensions and three copies must be provided. The plan must show:

a) A planting schedule, including quantities, of all shrubs, groundcovers, grasses and climbers.

11. Before the occupation of the development, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

12. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

13. Before the development starts, including any relating demolition or removal of vegetation, a Tree Management Plan (report) and Tree Protection Plan (drawing), to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority.

The Tree Management Plan must be specific to the trees shown on the Tree Protection Plan, in accordance with AS4970-2009, prepared by a suitably qualified arborist and provide details of tree protection measures that will be utilised to ensure all trees to be retained remain viable post-construction. Stages of development at which inspections are required to ensure tree protection measures are adhered to must be specified.

The Tree Protection Plan must be in accordance with AS4970-2009, be drawn to scale and provided details of:

a) The Tree Protection Zone and Structural Root Zone for all trees to be retained on the site and for all trees on neighbouring properties where any part of the Tree Protection Zone falls within the subject site.

b) The location of tree protection measures to be utilised.

14. All protection measures identified in the Tree Management and Protection Plans must be implemented, and development works undertaken on the land must be undertaken in accordance with the Tree Management and Protection Plans, to the satisfaction of the Responsible Authority.

15. Any pruning that is required to be done to the canopy of Tree 66 is to be done by a qualified arborist to Australian Standard – Pruning of Amenity Trees AS4373-1996. Any pruning of the root system of Tree 66 is to be done by a qualified arborist.
16. Before the development starts, the permit holder must apply to Council for the Legal Point of Discharge for the development from where storm-water is drained under gravity to the Council network.

17. Before the development starts, detailed plans indicating, but not limited to, the method of storm-water discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council’s Infrastructure Assets Department.

18. Prior to endorsement of plans required under Condition 1 of this permit, the permit holder must pay a drainage levy in accordance with the amount specified under the Bayside Drainage Development Contributions Plan. The levy amount payable will be adjusted to include the Building Price Index applicable at the time of payment.

The levy payment shall be submitted to Council with the Bayside Drainage Contributions Levy Charge Sheet and it must include the Building Price Index applicable at the time of payment.

19. This permit will expire if one of the following circumstances applies:

a) The development is not started within two years of the date of this permit.

b) The development is not completed within four years of the date of this permit.

In accordance with Section 69 of the Planning and Environment Act 1987, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extensions of the periods referred to in this condition.

Permit notes

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.

- Construction of any fence / wall / letterbox structures may necessitate removal / damage of some sections of footpath. If this is the case, a ‘Road Opening Permit’ must be obtained to facilitate such work.

- A ‘Road Opening / Stormwater Tapping Permit’ is to be obtained from the Infrastructure Department prior to the commencement of the connection to the Council Drain / kerb / channel.

- Council records indicate that there is no easement within the property.

- Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.

5. Council Policy

Council Plan 2017-2021

Relevant strategic objectives of the Council plan include:

- Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.

- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.
Where a range of housing types is provided to accommodate the changing needs of the community, enabling people to age in place and providing opportunities for young adults and families to live and remain in the municipality.

Relevant strategies of the Council plan include:

- Make discretionary planning controls stronger, by advocating for Council’s planning and urban design objectives to state government.

Bayside Planning Scheme

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 22.06 Neighbourhood Character Policy
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 42.03 Vegetation Protection Overlay (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 3)
- Clause 45.06 Development Contributions Plan Overlay (Schedule 1)
- Clause 52.06 Car Parking
- Clause 54 One dwelling on a lot
- Clause 65 Decision Guidelines

6. Considerations

In considering this application, regard has been given to the State and Local Planning Policy Frameworks, the provisions of the Bayside Planning Scheme, objections received and the individual merits of the application.

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct H3 and the proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The proposal retains sufficient space around the dwelling to accommodate a level of vegetation consistent with the bushy character identified in the preferred neighbourhood character and endorsed concept landscape plan prepared by John Patrick Landscape Architects. The proposal, subject to conditions of approval, would achieve a level of planting across the site consistent with the endorsed landscape concept plan and the bushy garden character sought by the preferred future character for the area.

The proposed double garage presents prominently to the Ruxton Rise streetscape through the natural orientation of the site. Due to constraints regard access and siting, car parking facilities will be evident. While the garage is inset 4 metres from the street-facing boundary, when viewed from the footpath this element of the built form will be readily visible. In order to satisfy the neighbourhood character guidelines, it is recommended for a condition of permit requiring natural materials, including vertical
timber cladding, for the garage door. This will also address the neighbourhood character objective that seeks built form that will complement the natural setting.

The proposal incorporates a number of design solutions to address the shape of the site and the retention of Tree 66, which was sought to be protected under the original subdivision permit. A thin built form towards the front of the site, with projecting elements from the first floor, present a creative solution to these limitations. Outside of the garage, views to the built form will be softened by the retention of Tree 66, a large, mature Canary Island Pine. The built form will be interesting, well-articulated and will not present obtrusively to the future Ruxton Rise streetscape.

As with other developments approved within the Beaumaris RSL site, given the slope and undulation of the land a level of disturbance is unavoidable. The kitchen and dining area towards the rear of the site will require 1.7 metres of excavation below natural ground level (NGL) to be viable. The ceiling level of this sub-floor element of the building will project only 1 metre above NGL, presenting these aspects as a basement. While this is considered a moderate level of site disturbance, it reflects a level of excavation similar to previously approved dwellings along the southern side of Ruxton Rise. Therefore, while the development may contradict the preferred neighbourhood character with regard to site excavation, the approved dwellings in the vicinity will have a similar articulation with regard to topography.

The proposal incorporates a number of changes in materials, finishes/textures and design features that break up the mass of the dwelling into smaller forms. While the proposal includes a variety of materials including timber cladding, render and stone, limited detail has been provided in regards to these materials. A condition of approval is recommended to require details and samples of the proposed materials be submitted.

6.2. **Compliance with Clause 54 (ResCode)**

An assessment against the requirements of Clause 54 is provided at Attachment 4. Those non-compliant standards are discussed below:

**Energy Efficiency Protection (Standard A7)**

The standard for energy efficiency is to orient development to make use of solar energy, locate living areas and private open space on the north side of the dwelling and maximise the use and value of north facing windows. While the majority of the dwelling, particularly to the north, will receive quality sunlight, the rear of the site – with three levels – will be adversely impacted by limited sunlight from its southern orientation, significant levels of site cut and interrupted morning light by Tree 66, which is non deciduous. As such, it is considered that a variation to Standard A7 is required for the development to be approved.

The objective for energy efficiency protection is to reduce fossil fuel energy use and make appropriate use of daylight and solar energy. Although the natural orientation of the site and building parcel will deliver secluded open space to the southern aspect of the dwelling, there is provision for private open space to the east and west of the dwelling. The primary element of the dwelling likely to be adversely impacted by a lack of solar access would be the sub-floor area of the kitchen and dining area. The applicant has sought to address this through proposing windows along the western wall and proposing a light well immediately to the north of the living room. Other north-facing windows are proposed in proximity to the sitting room, which sits marginally higher that the sub-floor kitchen and dining spaces.

Overall, it is considered that the applicant has achieved the objective by addressing the organic limitations on the site. Although the sub-floor aspects of the dwelling may require a greater than normal level of energy to maintain a suitable temperature, sufficient provision has been made for light and airflow.
Side and Rear Setbacks (Standard A10)

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Required</strong></td>
<td><strong>Proposed</strong></td>
</tr>
<tr>
<td>West (side)</td>
<td>2m, 2.4m</td>
</tr>
<tr>
<td>East (side)</td>
<td>0m, 2.4m</td>
</tr>
<tr>
<td>North (side)</td>
<td>2m</td>
</tr>
<tr>
<td>South (rear)</td>
<td>4m</td>
</tr>
</tbody>
</table>

The proposal would vary the side and rear setbacks at the first floor level as detailed above. The objective of Standard A10 is to ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

The proposal would vary the northern first floor setback to a maximum of 80mm. The adjacent property to the north, 4 Ruxton Rise, is currently vacant; however a planning permit was issued at the 18 July 2017 Planning and Amenity Committee for the development of a dwelling on this site. Given the size of the site and orientation of the building envelope at 4 Ruxton, it should be assumed that the dwelling would extend to the southern boundary with primary secluded private open space (SPOS) to western rear of the dwelling. Further, this interface adjoins the objector's property at 491 Balcombe Road. This site enjoys SPOS to the south of the lot which could be impacted by a reduced side setback variation to Standard A10. Due to the proximity to sensitive areas of 4 Ruxton Rise and 491 Balcombe Road, the first floor should be setback to comply with Standard A10 along the northern interface.

The proposal also requests a more significant variation to the southern rear setback of 1,180mm (1.18 metres). The adjacent property to the rear, 25B Bolton Street, is vacant but a concurrent application is with Council for the development of a double storey dwelling on this lot. The orientation of this proposal sees a degree of secluded open space along the interface between the two lots and a proposed 4 metre setback at the first floor level. The south facing wall of the studio/loft is proposed to be setback 4.6 metres from the same interface. 8 Ruxton Rise adjoins the site to the east and was approved at the 12 September 2017 Planning and Amenity Committee meeting with a 4.55 metre setback from the rear southern boundary. The pitch of the roof on the studio/loft is such that the maximum height of the roof is 7.3 metres, while the maximum height of the walls are 6.5 metres above NGL. Considering the approved setback at 8 Ruxton Rise and the height of the loft/studio walls, a variation to Standard A10 is recommended with the south-facing wall inset an additional 140mm. This would present a continuity across the north-facing RSL sites in the western corner of Ruxton Rise while satisfactorily reducing amenity impacts on the SPOS of 25B Bolton Street.

Overlooking (Standard A15)

The south facing Bedroom 1 floor-to-ceiling windows is within 9 metres of 25B Bolton Street. As mentioned, a concurrent application has been submitted for this lot and the rear SPOS on this site would be within 9 metres of the window. As such, a variation to the overlooking Standard A15 would be required for these windows.

The overlooking objective seeks to limit views into existing secluded private open space and habitable room windows. Due to the orientation of the building parcel on 25B Bolton Street, it is reasonable to assume that POS would remain on that side to the rear.
Officers consider that in order to achieve the objective, a condition of permit should be included to require Standard A15 be achieved at this window.

**Solar Access to Open Space (Standard A18)**

Standard A18 requires private open space to be located on the north side of a dwelling, if practicable. Further, and more prescriptively, the south boundary of the SPOS should be set back from any wall of the north of the space at least \((2 + 0.9h)\) metres, where ‘\(h\)’ is the height of the wall. The south-facing walls at the ground floor level are 4.27 metres above NGL, requiring a setback of 5.84 metres from the southern boundary in order to meet Standard A18. The applicant has requested a setback of 4 metres at this level. Additionally, the south-facing walls at the first floor level are 6.5 metres above NGL, requiring a setback of 7.85 metres from the southern boundary in order to meet Standard A18. The applicant has requested a setback of 4.6 metres at this level.

The solar access to open space objective is to allow solar access into the secluded private open space of a new dwelling. Although the southern SPOS of the site projects to be consistently impacted by a lack of sunlight, particularly in the winter months, additional space to the west and east of the dwelling is set aside as POS. This would allow other open spaces with access to quality sunlight in both the morning and afternoon within the subject land. Further, the inset of the south facing wall outlined in the response to the rear setback above will somewhat increase solar access in the rear SPOS. With that said, the orientation of the site and location of the building parcel is such that there projects to be natural limitations on solar access in towards the rear of the site. For the reasons outlined above, it is considered the design of the dwelling and internal private open space satisfies the objective, subject to a condition requiring an inset of the first floor south-facing wall.

### 6.3. Car parking and traffic

The dwelling is provided with a double car garage in accordance with Clause 52.06. Council’s Traffic Engineer has reviewed the application and advises they have no objection subject to conditions regarding the internal dimensions of the garage, sightlines, the crossover and driveway grades. The double garage meets the relevant internal dimension standards, the applicant has includes sightlines on the site plan and the crossover has since been constructed in accordance with the endorsed subdivision plans. Conditions of approval in relation to the driveway grades are include in the recommendation.

The level of increased traffic generated by the proposed development will not adversely impact the local road network and Council’s Traffic Engineer has raised no objection in this regard.

### 6.4. Vegetation & Landscaping

A landscape concept plan, prepared by John Patrick Landscape Architects Pty Ltd, was endorsed in accordance with subdivision permit 2014/516/2. Pursuant to the Section 173 Agreement all development applications for individual sites must be accompanied by a landscape plan that is generally consistent with the endorsed landscape concept plan. The landscape concept plan identifies the Canary Island Pine \((Pinus canariensis)\) for retention and provides a planting palette with shrubs, groundcovers, grasses and climbers. The landscape concept plan identifies a Coast Banksia and a Black Sheoak to be planted in the rear of the site.

A landscape plan for the site, prepared by John Patrick Landscape Architects Pty Ltd and dated November 2016 has been submitted in support of the application. A variety of trees, shrubs and groundcovers are proposed throughout the site, including 8 canopy trees. It is considered that the proposed planting on the subject land is consistent with the endorsed landscape plan. The wording “consistent with” is considered to be a higher test than the commonly used “generally in accordance with”. 
In this context it is considered appropriate for the proposed canopy tree planting for the site to be in accordance with the landscape concept plan; however the shrubs, groundcovers, grasses and climbers may deviate from the planting palette in the endorsed landscape concept plan provided the alternative design achieves a sufficient bushy garden character with the use of a high level of native species. A condition will be added to the permit to update the quantities of shrubs, groundcovers, grasses and climbers. The variety of planting proposed throughout the site, particularly in proximity to Tree 66 and close to the southern boundary, is considered appropriate and likely to have positive amenity impacts to the site. Therefore, the level of landscaping proposed is recommended for support.

Tree 66, a Canary Island Pine (*Pinus canariensis*), on site is identified for retention in the endorsed subdivision plans. An arborist report, prepared by Greenwood Consulting and dated 24 May 2017, has been submitted in support of the application. The report identifies the built form footprint, including the driveway, as proposed would have a 12.5% incursion into the Canary Island Pine tree protection zone (TPZ). While this presents a major incursion into the TPZ, the arborist report has included measures to retain the health of the tree. The dwelling entrance raised deck and patio to accompany the eastern POS would not represent incursions into the TPZ. The arborist report recommends fencing and restricting access to the TPZ, mulching and irrigating the TPZ dependant on weather and whether the area needs to be accessed at any point during construction and for root excavation to be carried out by hand or with air-excavation techniques.

Council's Arborists have reviewed the report and advise the use of the word “should” in the tree protection measures identified in appendix one raised issues with enforcement of the implementation of the tree protection measures. A condition of approval is recommended to require the word “must” in place of “should” in appendix one of the Arboricultural Report.

There are no trees on neighbouring properties that will be impacted by the development.

### 6.5. Objections received

Issues raised by objectors that have not been addressed in the assessment above, are discussed below.

**Maximum Heights on the Plans**

The application plans consistently show maximum height above NGL or the adjacent natural ground level.

### Support Attachments

1. Development Plans ↓
2. Site Surrounds and Imagery ↓
3. Neighbourhood Character Assessment ↓
4. Clause 54 (ResCode) Assessment ↓
Item 4.1 – Matters of Decision
Item 4.1 – Matters of Decision
Item 4.1 – Matters of Decision
ATTACHMENT 2
Site Surrounds and Imagery

Figure 1. Aerial overview of the site and surrounds

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<tr>
<th>Legend</th>
</tr>
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<tbody>
<tr>
<td>Subject site</td>
</tr>
<tr>
<td>Objector</td>
</tr>
</tbody>
</table>
Figure 2. View to 6 Ruxton Rise looking south-west from Ruxton Rise footpath

Figure 3. View toward Balcombe Road looking north from 6 Ruxton Rise
Figure 4. View from 6 Ruxton Rise looking south with Tree 66 to the east on a lovely Bayside Spring day
ATTACHMENT 3
Neighbourhood Character (Precinct H3) Assessment

Preferred Future Character Statement

The bushy gardens surrounding the dwellings dominate the streetscapes. Where the topography is hilly, the buildings are set within the landscape, and are sometimes sited to take advantage of water views without dominating the streetscape. Adequate space is provided around dwellings for the retention and planting of vegetation, and indigenous canopy trees are common. Low or open style front fences are usually provided, in order to retain the openness of the front garden to the street.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To strengthen the bushy garden character of the area through the planting of appropriate species. | • Retain large established trees and understorey, and provide for the planting of new indigenous trees wherever possible (locate footings outside root zone).  
• Prepare a landscape plan to accompany all applications for new dwellings that utilises appropriate native, preferably indigenous, vegetation.  
• Minimise impervious surfaces particularly in front garden spaces to ensure space for plantings. | Lack of landscaping and substantial vegetation.  
Removal of large established trees.  
Planting of environmental weeds | Responds  
A landscape plan has been submitted in support of the application. It is considered that the level of landscaping is a positive reflection on the preferred neighbourhood character. |
| To maintain the rhythm of spacious visual separation between buildings and ensure adequate space is provided around buildings for the retention and planting of vegetation. | • Buildings should be sited to allow space for a garden, including trees and shrubs.  
• Buildings should be sited to create the appearance of space between buildings and accommodate vegetation. | Loss of front garden space. | Responds  
The dwelling is within the building parcel approved as a part of the subdivision permit (2014/516/2) which allows for an appropriate spread of dwellings within the new site. |
<p>| To minimise the loss of front garden spaces and the | • Locate garages and carports behind the line of the dwelling. | Car parking structures that | Does Not Respond |</p>
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Avoid dominance of car parking structures.</td>
<td>- Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space.</td>
<td>dominate the façade or view of the dwelling.</td>
<td>The proposed garage presents prominently to the Ruxton Rise streetscape. This element of the built form will be readily visible when approaching the site and dominate views from public spaces.</td>
</tr>
<tr>
<td>To minimise site disturbance and impact of the building on the landscape.</td>
<td>- Buildings should be designed to follow the contours of the site on sloping sites.</td>
<td>Major excavation works and site levelling.</td>
<td>Does Not Respond</td>
</tr>
<tr>
<td></td>
<td>- Minimise the use of retaining walls and battering of slopes.</td>
<td></td>
<td>While significant excavation is proposed on the site, it is considered necessary in order to allow this undulating land to be developed. The design of the dwelling will see the need for retaining walls on-site. Other developments approved within the Beaumaris RSL site have been approved with similar levels of excavation.</td>
</tr>
<tr>
<td></td>
<td>- Design new buildings and extensions so as not to exceed the predominant tree canopy height.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To ensure that new buildings provide an articulated and interesting façade to the street.</td>
<td>- Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, combinations of materials, textures or colours or other elements providing appropriate articulation. - Recess upper levels from the front façade.</td>
<td>Large, bulky buildings Poorly articulated front and side wall surfaces.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>This proposal incorporates a variety of materials and screening in order to present an interesting and naturally complementary built form.</td>
</tr>
<tr>
<td>To use building materials and finishes that complement the natural setting.</td>
<td>- Use a mix of materials, textures and finishes including render, timber, non-masonry sheeting, glazing, stone and brick.</td>
<td>Period reproduction styles and detailing.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>As discussed, the variety of materials will complement the natural surrounds.</td>
</tr>
<tr>
<td>To maintain the openness of the front garden to the street.</td>
<td>- Provide open style front fences, other than along heavily trafficked roads.</td>
<td>High or solid front fences.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>- Use vegetation as an alternative where possible.</td>
<td></td>
<td>No front fencing is proposed.</td>
</tr>
</tbody>
</table>
## ATTACHMENT 4

### Clause 54 (ResCode) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>A1 Neighbourhood Character</td>
<td>Yes</td>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Development responds to features of the site and surrounding area.</td>
</tr>
<tr>
<td>A2 Integration with Street</td>
<td>Yes</td>
<td>The dwelling addresses the Ruxton Rise streetscape and, although the front door is inset some distance from the street, it generally addresses the layout and is likely to provide a conceptual integration between public and private space.</td>
</tr>
<tr>
<td>A3 Street Setback</td>
<td>Yes</td>
<td>Minimum: 4m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed: 4.35m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Note: The street setback is set by the building parcel approved under the original subdivision permit (2014/516/2).</td>
</tr>
<tr>
<td>A4 Building Height</td>
<td>Yes</td>
<td>Required: 8m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed: 7.3m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Note: The height limit is specified in sheet 3 of 7 of the previously endorsed plans for the original subdivision permit (2014/516/2).</td>
</tr>
<tr>
<td>A5 Site Coverage</td>
<td>Yes</td>
<td>Maximum: 50%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed: 42%</td>
</tr>
<tr>
<td>A6 Permeability</td>
<td>Yes</td>
<td>Minimum: 20%</td>
</tr>
</tbody>
</table>
Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration. | **Proposed**: 58%

**A7 Energy Efficiency**
Achieve and protect energy efficient dwellings. Ensure the development's orientation and layout reduce fossil fuel energy use and makes appropriate use of daylight and solar energy. | **No**
The basement areas, including kitchen, dining and living space 1, are located to the south side of the dwelling. This portion of the dwelling is proposed to be dug-in 1.8 metres below the natural ground level, which will limit sunlight and restrict air movement through the dwelling.

**A8 Significant Trees**
Development respects the landscape character of the neighbourhood and retains significant trees on site. | **Yes**
T66 was recognised on permit 2014/516/2 as a significant tree. The development of this dwelling has been designed to protect and retain this tree. Further, conditions of permit will be added to enhance this standard being sufficiently met.

**A10 Side and Rear Setbacks**
Ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings. | **No**
Refer report and table below. Areas of non-compliance are underlined.

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Ground Floor</strong></td>
<td><strong>First Floor</strong></td>
</tr>
<tr>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td><strong>West (side)</strong></td>
<td>2m, 2.4m</td>
</tr>
<tr>
<td><strong>East (side)</strong></td>
<td>0m, 2.4m</td>
</tr>
<tr>
<td><strong>North (side)</strong></td>
<td>2m</td>
</tr>
<tr>
<td><strong>South (rear)</strong></td>
<td>4m</td>
</tr>
</tbody>
</table>

**A11 Walls on Boundaries**
Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings. | **Yes**
**Max. Height**: 3.6m – proposed 2.84m

**Average Height**: 3.2m – proposed 2.84m

**Max. Length**: 15.91m – proposed 11.7m

**A12 Daylight to existing windows** | **Yes**
The proposal will ensure daylight to existing windows is maintained.
### Item 4.1 – Matters of Decision

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>A13 North Facing Windows</td>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td>Yes</td>
<td>No north facing windows on adjoining properties are affected. <em>Note: This has considered windows proposed in the concurrent application for 25B Bolton Street (2016/73)</em></td>
</tr>
<tr>
<td>A14 Overshadowing Open Space</td>
<td>Ensure buildings do not unreasonably overshadow existing secluded private open space.</td>
<td>Yes</td>
<td>Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 September. <em>Note: This considers the previously approved dwelling and private open space at 8 Ruxton Rise (2016/334)</em></td>
</tr>
<tr>
<td>A15 Overlooking</td>
<td>Limit views into existing secluded private open space and habitable room windows</td>
<td>No</td>
<td>South facing ground floor windows will overlook 25B Bolton Street.</td>
</tr>
<tr>
<td>A16 Daylight to New Windows</td>
<td>Allows adequate daylight into new habitable room windows.</td>
<td>Yes</td>
<td>All habitable windows have direct access to daylight.</td>
</tr>
<tr>
<td>A17 Private Open Space</td>
<td>Provide adequate private open space for the recreation and service needs of residents.</td>
<td>Yes</td>
<td>Minimum: 25m² secluded, 40m² overall Proposed: greater than 100m² of SPOS has been provided</td>
</tr>
<tr>
<td>A18 Solar Access to Open Space</td>
<td>Allow solar access into secluded private open space of a new dwelling.</td>
<td>No</td>
<td>Required setback from north-facing wall to SPOS: 8.57m Proposed: 4.6m</td>
</tr>
<tr>
<td>A19 Design Detail</td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Refer Attachment 3.</td>
</tr>
<tr>
<td>A20 Front Fences</td>
<td>Encourage front fence design that respects the exiting or</td>
<td>Yes</td>
<td>Required: 1.2m Proposed: No front fence proposed</td>
</tr>
<tr>
<td>preferred neighbourhood character.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
This matter has been reported to the Planning and Amenity Committee for a decision as a result of Councillor call-in.

1. Purpose and background

To report a planning permit application for the construction of a double storey dwelling on a lot less with an area of 410 square metres (refer Attachment 1) at 9 Ruxton Rise, Beaumaris (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Trusch Design Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>20 June 2017</td>
</tr>
<tr>
<td>Statutory days expire</td>
<td>4 November 2017</td>
</tr>
</tbody>
</table>

Site History

Planning permit 2014/516 was granted on the 17 March 2015 at the direction of the Victorian Civil and Administrative Tribunal (VCAT) for the subdivision of the former Beaumaris RSL site at 489 Balcombe Road into 20 lots, removal of vegetation, alteration of access to a Category 1 Road Zone and variation and removal of easements.

The permit was amended via Section 72 of the Planning and Environment Act 1987 on the 13 October 2015 for minor amendments to the conditions. The permit was amended again via Section 71 of the Planning and Environment Act 1987 on the 5 November 2015 to correct a minor clerical error in the original drafting of the conditions.

Individual titles for the 20 lots have been issued. A number of the conditions of the subdivision permit, the endorsed plans and a Section 173 agreement lodged on all titles across the site place restrictions on the development of each site. These are discussed later in the report.

Subdivision plans have been endorsed that direct a number of aspects of the development of individual sites, including the provision of building envelopes and maximum building heights.

A landscape concept plan has also been endorsed for the larger site. All landscape plans for individual lots must be consistent with the landscape concept plan.

The section 173 agreement on each title imparts obligations on the owner in relation to the building envelope, height of development and tree protection fencing, and requires landscape plans to be prepared for each site and arborist reports where trees are to be retained.

It is noted the original Section 173 agreement did not allow works outside of the building envelope. This prohibited all works that would normally be associated with a dwelling including site cuts, driveways and letterboxes from occurring outside the building envelope. It is acknowledged this was over and above the intent of the building envelopes as decided by the VCAT decision and an amended Section 173 agreement was re-drafted that reflects the intent of the VCAT decision and community expectations for the development of the site, while enabling landowners to reasonably develop each site. The amended section 173 was signed by all owners and Council and registered on all titles on the 21 June 2017 (Dealing No. AN936521R).

Applicant

Trusch Design Pty Ltd

Date application received

20 June 2017

Statutory days expire

4 November 2017
2. **Policy implications**

   **Planning permit requirements**

   Clause 32.09-6 (Neighbourhood Residential Zone) – Construction of one dwelling on a lot.

3. **Stakeholder Consultation**

   **External referrals**

   There were no external referrals required to be made in accordance with Clause 66 of the Bayside Planning Scheme.

   **Internal referrals**

   The application was referred to the following Council departments for comment:

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drainage</td>
<td>No objection, subject to condition.</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>No objection, subject to condition.</td>
</tr>
</tbody>
</table>

4. **Recommendation**

   That Council:

   Issues a Planning Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2017/382/1 for the land known and described as 9 Ruxton Rise, Beaumaris, for the construction of a double storey dwelling on a less than 500 square metres in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

   1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the application plans submitted 3 August 2017 but modified to show:
      a) Length and width of the basement car parking spaces in accordance with AS2890.1.
      b) Removal of all reference to height and location of boundary fencing.
      c) A Water Sensitive Urban Design response in accordance with Condition 7 of this permit.
      d) A schedule of construction materials, external finishes and colours (incorporating paint samples).

   2. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

   3. Before the occupation of the site commences or by such later date as is approved in writing by the Responsible Authority, all buildings and works must be carried
out and completed to the satisfaction of the Responsible Authority.

4. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.

5. All pipes (excluding downpipes), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

6. Before occupation, screening of windows and roof decks including fixed privacy screens be designed to limit overlooking as required by Standard A15 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

7. Before the development starts, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must show:
   a) The type of water sensitive urban design stormwater treatment measures to be used.
   b) The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaped areas.
   c) Design details of the water sensitive urban design stormwater treatment measures, including cross sections.

These plans must be accompanied by a report from an industry accepted performance measurement tool which details the treatment performance achieved and demonstrates the level of compliance with the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999.

8. Before the occupation of the development starts, the areas set aside for vehicle parking and accessways must be constructed, drained and line marked to the satisfaction of the Responsible Authority. Such areas must be kept available for these purposes at all times.

9. Before the occupation of the development starts, new or altered vehicle crossing servicing the development must be constructed to the satisfaction of the Responsible Authority and any existing disused or redundant crossing or crossing opening must be removed and replaced with footpath/nature strip/ kerb and channel, to the satisfaction of the Responsible Authority.

10. Before the development starts, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan submitted to Council 29 August 2017 and be drawn to scale with dimensions and three copies must be provided. The plan must show:
    a) A planting schedule, including quantities, of all shrubs, groundcovers, grasses and climbers.
    b) Details of surface finishes of pathways and driveways.

11. Before the occupation of the development the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

12. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.
13. Before the development starts, the permit holder must apply to Council for the Legal Point of Discharge for the development from where storm-water is drained under gravity to the Council network.

14. Before the development, detailed plans indicating, but not limited to, the method of storm-water discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council’s Infrastructure Assets Department.

15. Prior to endorsement of the plan/s required under Condition 1 of this permit, the permit holder must pay a drainage levy in accordance with the amount specified under the Bayside Drainage Development Contributions Plan. The levy amount payable will be adjusted to include the Building Price Index applicable at the time of payment.

The levy payment shall be submitted to Council with the Bayside Drainage Contributions Levy Charge Sheet and it must include the Building Price Index applicable at the time of payment.

16. This permit will expire if one of the following circumstances applies:
   a) The development is not started within two years of the date of this permit.
   b) The development is not completed within four years of the date of this permit.

In accordance with Section 69 of the Planning and Environment Act 1987, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.

**Permit notes**

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.

- Construction of any fence / wall / letterbox structures may necessitate removal / damage of some sections of footpath. If this is the case, a ‘Road Opening Permit’ must be obtained to facilitate such work.

- A ‘Road Opening / Stormwater Tapping Permit’ is to be obtained from the Infrastructure Department prior to the commencement of the connection to the Council Drain / kerb / channel.

- Council records indicate that there is no easement within the property.

- Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.

5. **Council Policy**

**Council Plan 2017-2021**

Relevant strategic objectives of the Council plan include:

- Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.

- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.
Where a range of housing types is provided to accommodate the changing needs of the community, enabling people to age in place and providing opportunities for young adults and families to live and remain in the municipality.

Relevant strategies of the Council plan include:

- Make discretionary planning controls stronger, by advocating for Council’s planning and urban design objectives to state government.

**Bayside Planning Scheme**

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 22.06 Neighbourhood Character Policy
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 42.03 Vegetation Protection Overlay (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 3)
- Clause 45.06 Development Contributions Plan Overlay (Schedule 1)
- Clause 52.06 Car Parking
- Clause 54 One dwelling on a lot
- Clause 65 Decision Guidelines

6. **Considerations**

In considering this application, regard has been given to the State and Local Planning Policy Frameworks, the provisions of the Bayside Planning Scheme, objections received and the individual merits of the application.

6.1. **Neighbourhood character**

The site is located within Neighbourhood Character Precinct H3 and the proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The proposal retains sufficient space in the rear private open space to the south of the dwelling to accommodate a level of vegetation consistent with the bushy character identified in the preferred neighbourhood character and endorsed concept landscape plan prepared by John Patrick Landscape Architects. The proposal, subject to conditions of approval, would achieve a level of planting across the site consistent with the endorsed landscape concept plan and the bushy garden character sought by the preferred future character for the area.

The proposed garage door is in-line with the primary ground floor façade of the dwelling and is sought to be dug-in to allow for parking facilities at the basement level. This reduces the dominance of the car parking structures. The slope of the site further reduces the dominance of the garage when viewed from the Ruxton Rise streetscape. The front door is recessed behind the primary front wall but it is clearly delineated with a
walkway, stairs and a steel pergola over the entrance facing the street. The proposal is considered to represent a design that is both congruent with other applications approved on the former Beaumaris RSL site and appropriate with regard to the preferred neighbourhood character.

Given the slope and undulation of the existing site, a level of disturbance is unavoidable, particularly given the 8 metre height limit prescribed for the site in the endorsed subdivision plans. The need to establish a useable area of private open space for each dwelling is also acknowledged. The proposed site cut for the dwelling is not considered excessive in this context.

The dwelling would utilise selected render and horizontal timber cladding. Window joinery is sought to be aluminium. The materials proposed are generally in keeping with other dwellings approved on the former Beaumaris RSL site and the proposal is considered to respond to the existing neighbourhood character. No front fencing is proposed as a part of the application, retaining the open nature of the streetscape and providing a conceptual integrated between public and private spaces.

6.2. **Compliance with Clause 54 (ResCode)**

An assessment against the requirements of Clause 54 is provided at Attachment 4. Those non-compliant standards are discussed below:

**Side and Rear Setbacks (Standard A10)**

<table>
<thead>
<tr>
<th></th>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>West (side)</td>
<td>Required 2m</td>
<td>Proposed 2.2m</td>
</tr>
<tr>
<td>East (side)</td>
<td>0m or 2m</td>
<td>0m &amp; 2m</td>
</tr>
<tr>
<td>South (rear)</td>
<td>3m</td>
<td>4.1m</td>
</tr>
</tbody>
</table>

The proposal seeks a variation to the setback standards to the side western boundary of 140 mm at the first floor level. Additionally, the proposal seeks a rear first floor setback variation towards the south at a maximum of 440mm. The objective of Standard A10 is to ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

The variations required are considered to satisfactorily achieve the preferred neighbourhood character associated with Precinct H3 thus satisfying the objective. The first floor provides a combination of well-articulated surfaces with setbacks that preserve a spaciousness within the streetscape. The sloping nature of sites to the south of Ruxton Rise will further provide a conceptual separation between the streetscape and the built form. Additionally, the variation to the rear setback is unlikely to adversely impact on the private open space at 25F Bolton Street through its height or reduced setback. As such, it is recommended that the variations are supported and the design of the built form remains consistent.

**Walls on Boundaries (Standard A11)**

The length of the wall along the western boundary is proposed at 15.27 metres in length which requires a variation to Standard A11. In order to meet this standard a length of 15.07 metres would be required, therefore the variation would be 200mm.

The objective for walls on boundary is to ensure that the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwelling. In this instance, a dwelling was recently approved at 7 Ruxton Rise which shares the western interface with 9 Ruxton Rise. This
dwelling would include a wall that shares this boundary and a light well that would prominently feature in concert between the dwellings. This provides for an innovative sharing of light between the two properties that provides mutual benefit to both dwellings. Therefore, the proposal is considered to respond to the site specific preferred neighbourhood character and will not result in adverse amenity to 7 Ruxton Rise. As such, the length of the wall on the boundary satisfies the objective.

**Solar access to open space (Standard A18)**

The standard for solar access to open space is that the private open space should be located on the north side of the dwelling, if possible. Additionally, the southern boundary of the secluded private open space should be set back from any wall on the north of the space at least 2 metres plus 0.9 metres for every metre of the wall height. The proposed wall along the south elevation has a maximum height of 6.1 metres, meaning that the setback from the rear boundary would need to be 7.49 metres in order to achieve this standard. The application proposes a 4 metre setback from this boundary, requiring a variation to the standard and the objective to be satisfactorily achieved.

The objective for solar access to open space is to allow solar access into the secluded private open space of a new dwelling. The design of the site is such that the secluded private open space is located on the southern side of the dwelling. The building parcel registered on the subdivision application 2014/516/2 allows a dwelling to extend to within 4 metres of the rear boundary. The natural slope of the land and pitched angle of the roof will lead to overshadowing impacts on the southern private open space throughout the day. That said, there has been provision made for private space rife with quality and seclusion along the western interface with 11 Ruxton Rise. This would include a swimming pool, patio and outer deck. This portion of the SPOS would experience quality afternoon sun at the vernal equinox. Further, the open space in the southern portion of the site will experience diminished shadowing throughout the course of an afternoon.

With all of these factors considered, the design of the dwelling achieves the objective for solar access to the on-site open space. Quality internal amenity and solar access will be retained for the open space along the western interface.

6.3. **Car parking and traffic**

The dwelling is provided with a basement car parking area which allows space for two car parking spaces in accordance with Clause 52.06. Council’s Traffic Engineer has reviewed the application and advises they have no objection subject to conditions regarding access from Ruxton Rise and car parking spaces.

The level of increased traffic generated by the proposed development will not adversely impact the local road network and Council’s Traffic Engineer has raised no objection in this regard.

6.4. **Vegetation and Landscaping**

A landscape concept plan, prepared by John Patrick Landscape Architects Pty Ltd, was endorsed in accordance with subdivision permit 2014/516/2. Pursuant to the Section 173 Agreement all development applications for individual sites must be accompanied by a landscape plan that is generally consistent with the endorsed landscape concept plan. The landscape concept plan requires a planting schedule allowing for two Black Sheoak (*Allocasuarina littoralis*) canopy trees on the site, one in the front garden and one in the rear open space.

A landscape plan for the site prepared by John Patrick Landscape Architects and dated October 2016, has been submitted in support of the application. A variety of trees, shrubs and groundcovers are proposed throughout the site, including 6 canopy trees. A condition will be added to the permit to update the quantities of shrubs, groundcovers, grasses and climbers. The variety of planting proposed throughout the site, particularly along the Ruxton Rise streetscape and within the southern secluded private open space,
is consistent with the endorsed landscape plan and is therefore recommended for support.

Support Attachments
1. Development Plans ↓
2. Site Surrounds and Imagery ↓
3. Neighbourhood Character Assessment ↓
4. Clause 54 Assessment ↓
PROPOSED NEW RESIDENCE
at 9 RUXTON RISE (LOT 7)
BEAUMARIS VICTORIA
for D PAYTON
Item 4.2 – Matters of Decision
Item 4.2 – Matters of Decision
REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

VOLUME 04861 FOLIO 124  Security no : 124064812395X
Produced 02/03/2017 10:42 am

LAND DESCRIPTION

Lot 14 on Plan of Subdivision 008133.
PARENT TITLE Volume 04781 Folio 072
Created by instrument 1188129 31/05/1924

REGISTERED PROPRIETOR

Estate Fee Simple
Joint Proprietors
UGUR MERHET ODENDIR
UMIT SULEYMAN ODENDIR both of 349 NEPEAN HIGHWAY BRIGHTON EAST VIC 3187
AN456619X 14/01/2017

ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AN456620P 14/01/2017
NATIONAL AUSTRALIA BANK LTD

COVENANT 1188129 31/05/1924

Any encumbrances created by Section 96 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan or imaged folio set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION

SEE LP008133 FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

<table>
<thead>
<tr>
<th>NUMBER</th>
<th>NOMINATION TO PAPER INST.</th>
<th>STATUS</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>AN353581B (E)</td>
<td></td>
<td>Completed</td>
<td>16/12/2016</td>
</tr>
<tr>
<td>AN356740Y</td>
<td></td>
<td>Registered</td>
<td>19/12/2016</td>
</tr>
<tr>
<td>AN362435T</td>
<td>AMEND FOLIO REMOVE ENC.</td>
<td>Registered</td>
<td>21/12/2016</td>
</tr>
<tr>
<td>AN407210M</td>
<td>AMEND FOLIO REMOVE ENC.</td>
<td>Registered</td>
<td>22/12/2016</td>
</tr>
<tr>
<td>AN456619X</td>
<td>TRANSFER BY MORTGAGEE</td>
<td>Registered</td>
<td>17/01/2017</td>
</tr>
<tr>
<td>AN456620P</td>
<td>MORTGAGE</td>
<td>Registered</td>
<td>17/01/2017</td>
</tr>
<tr>
<td>AL833397F</td>
<td>NOTICE OF ACTION</td>
<td>Abandoned</td>
<td>19/12/2016</td>
</tr>
</tbody>
</table>

----------------------------------------END OF REGISTER SEARCH STATEMENT----------------------------------------

Additional information: (not part of the Register Search Statement)
Street Address: 349 NEPEAN HIGHWAY BRIGHTON EAST VIC 3187

ADMINISTRATIVE NOTICES

NIL

eCT Control 17914D NAB BROKER
Effective from 17/01/2017

DOCUMENT END
Application for Planning Permit

Use this form to make an application for a planning permit and to provide the information required by section 47 of the Planning and Environment Act 1987 and regulations 15 and 38 of the Planning and Environment Regulations 2006.

Supplementary information requested in this form should be provided as an attachment to your application. Please print clearly or complete the form electronically (refer to How to complete the Application for Planning Permit form).

Privacy notice

Information collected with this application will only be used to consider and determine the application. It will be made available for public inspection in accordance with section 51 of the Planning and Environment Act 1987.

Need help with the application?

If you need help to complete this form, read How to complete the Application for Planning Permit form. For more information about the planning process, refer to Planning: a Short Guide. These documents are available from your local council, the Planning Information Centre (Ph: 03 9637 8610, 8 Nicholson Street, Melbourne), or www.dse.vic.gov.au/planning.

Contact council to discuss the specific requirements for this application and obtain a planning permit checklist. Insufficient or unclear information may delay your application.

1. Has there been a pre-application meeting with a council officer?
   - Yes
   - No
   
   If yes, with whom?: ARTHUR VATZAKIS
   
   Date: 09/11/2016

2. Address of the land. Complete the Street Address and one of the Formal Land Descriptions.

   Street No.: 349
   Street Name: NEPEAN HIGHWAY

   Suburb/Locality: BRIGHTON EAST
   Postcode: 3187

   Lot No.: 14
   or
   on Lodged Plan, Title Plan or Subdivision Plan No.: 008133

3. Title information.

4. Describe how the land is used and developed now.
   e.g., single dwelling, three dwellings, shop, factory, medical centre with two practitioners, licensed restaurant with 80 seats.

5. Plan of the land.

   annexed

   ONE EXISTING RESIDENTIAL DWELLING

   annexed

   ATTACHMENT (PLAN OF EXISTING CONDITIONS)

   annexed

   ATTACHMENT (PLAN OF EXISTING CONDITIONS) Photos are also helpful.

Application for Planning Permit OL605

Victoria, Australia

Page 1 of 4
The proposal

⚠️ You must give full details of your proposal and attach the information required to assess the application.

If you do not give enough detail or an adequate description of the proposal you will be asked for more information. This will delay your application.

1. For what use, development or other matter do you require a permit?
   Read How to complete the Application for Planning Permit form if you need help in describing your proposal.

2. Additional information about the proposal.
   Contact council or refer to council planning permit checklists for more information about council's requirements.

3. Encumbrances on title.
   Encumbrances are detailed on the certificate of title.

   - Is the land affected by an encumbrance such as a restrictive covenant, section 173 agreement or other obligation on title such as an easement or building envelope?
     - No, go to 9.
     - Yes. Attach a copy of the document (instrument) specifying the details of the encumbrance.

   - Does the proposal breach, in any way, the encumbrance on title?
     - No, go to 9.
     - Yes, contact council for advice on how to proceed before continuing with this application.

4. Costs of buildings and works/permit fee

   Most applications require a fee to be paid. Where development is proposed, the value of the development affects the fee. Contact council to determine the appropriate fee.

   - Estimated cost of development for which the permit is required.

   - Do you require a receipt for the permit fee?
     - Yes
     - No

⚠️ Note

Council must not grant a permit that authorises anything that would result in a breach of a registered restrictive covenant (sections 61(4) and 62 of the Planning and Environment Act 1987). Contact council and/or an appropriately qualified person for advice.
Contact, applicant and owner details

Provide details of the contact, applicant, and owner of the land:

**Name:** JAMES NUANAJ / MICHAEL SHEPPERD

**Organisation (if applicable):** DESIGN SUBDIVIDE BUILD

**Postal address:** LEVEL 23 / 500 COLLINS STREET, MELBOURNE, 3000

**Contact phone:**

**Mobile phone:** 0403 740 775

**Email:** James.n@design-subdivide-build.com

**Fax:**

---

**Applicant**

The person or organisation who wants the permit.

- ✔ Same as contact. If not, complete details below.

**Name:**

**Organisation (if applicable):**

**Postal address:**

**Postcode:**

---

**Owner**

The person or organisation who owns the land.

- Same as contact

- Same as applicant

Where the owner is different from the applicant or contact, provide the name of the person or organisation who owns the land.

**Name (if applicable):** UBER MEGMET OZDEMIR / UMUT SULEYMAN OZDEMIR

**Organisation (if applicable):**

**Postal address:** 349 NELSON HIGHWAY, BRIGHTON EAST, 3187

**Postcode:** 3187

---

**Checklist**

☑ Have you?

☑ Filed in the form completely?

☑ Paid or included the application fee?

☑ Attached all necessary supporting information and documents?

☑ Completed the relevant council planning permit checklist?

☑ Signed the declaration on the next page?
### Declaration

1. **A Owner/Applicant**
   - I declare that I am the applicant and owner of the land and all the information in this application is true and correct.
   - Signature
   - Date: / / 

2. **B Owner**
   - I declare that I am the owner of the land and I have seen this application.
   - Signature
   - Date: / / 

3. **C Applicant**
   - I declare that I am the applicant and all of the information in this application is true and correct.
   - Signature
   - Date: 17/10/2017

### Lodgement

Lodge the completed and signed form and all documents with:

Bayside City Council
PO Box 27, SANDRINGHAM VIC 3191
Corporate Centre, 78 Royal Avenue, SANDRINGHAM VIC 3191
Telephone: (03) 9598 4666
Fax: (03) 9598 4474

Email: enquiries@bayside.vic.gov.au
TTY: (03) 9599 4600
ATTACHMENT 3
Neighbourhood Character (Precinct H3) Assessment

Preferred Future Character Statement

The bushy gardens surrounding the dwellings dominate the streetscapes. Where the topography is hilly, the buildings are set within the landscape, and are sometimes sited to take advantage of water views without dominating the streetscape. Adequate space is provided around dwellings for the retention and planting of vegetation, and indigenous canopy trees are common. Low or open style front fences are usually provided, in order to retain the openness of the front garden to the street.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To strengthen the bushy garden character of the area through the planting of appropriate species. | - Retain large established trees and understorey, and provide for the planting of new indigenous trees wherever possible (locate footings outside root zone).  
- Prepare a landscape plan to accompany all applications for new dwellings that utilises appropriate native, preferably indigenous, vegetation.  
- Minimise impervious surfaces particularly in front garden spaces to ensure space for plantings. | Lack of landscaping and substantial vegetation. Removal of large established trees. Planting of environmental weeds | Responds  
A landscape plan has been submitted in support of the application. It is considered that the level of landscaping is a positive reflection on the preferred neighbourhood character. |
| To maintain the rhythm of spacious visual separation between buildings and ensure adequate space is provided around buildings for the retention and planting of vegetation. | - Buildings should be sited to allow space for a garden, including trees and shrubs.  
- Buildings should be sited to create the appearance of space between buildings and accommodate vegetation. | Loss of front garden space. | Responds  
The dwelling is within the building parcel approved as a part of the subdivision permit (2014/516/2) which allows for an appropriate spread of dwellings within the new site. |
| To minimise the loss of front garden spaces and the | - Locate garages and carports behind the line of the dwelling. | Car parking structures that | Responds |

Item 4.2 – Matters of Decision
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>dominance of car parking structures.</strong></td>
<td>• Underground car parking accessed from the front of the site should only be</td>
<td>dominate the façade or view of the dwelling.</td>
<td>The proposed garage is in line with the primary façade and the undulation of the land and natural cladding diminish visual impacts on the future streetscape of Ruxton Rise. There is sufficient space for landscaping along the Ruxton Rise frontage.</td>
</tr>
<tr>
<td></td>
<td>provided where other options are not possible due to site constraints, the</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>garage doors do not dominate the façade and the front setback area is retained</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>as predominantly garden space.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>To minimise site disturbance and impact of the building on the landscape.</strong></td>
<td>• Buildings should be designed to follow the contours of the site on sloping</td>
<td>Major excavation works and site levelling.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>sites.</td>
<td></td>
<td>While significant excavation is proposed on the site, it is considered necessary in order to allow this undulating land to be developed. The design of the dwelling reduces the need for retaining walls on and off-site.</td>
</tr>
<tr>
<td></td>
<td>• Minimise the use of retaining walls and battering of slopes.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Design new buildings and extensions so as not to exceed the predominant tree</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>canopy height.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>To ensure that new buildings provide an articulated and interesting façade to the street.</strong></td>
<td>• Incorporate design elements into the front façade design of new dwellings</td>
<td>Large, bulky buildings poorly articulated front and side wall surfaces.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>such as recessed portions, projecting elements behind the front setback line,</td>
<td></td>
<td>This proposal incorporates a variety of materials and screening in order to present an interesting and naturally complementary built form.</td>
</tr>
<tr>
<td></td>
<td>combinations of materials, textures or colours or other elements providing</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>appropriate articulation.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Recess upper levels from the front façade.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>To use building materials and finishes that complement the natural setting.</strong></td>
<td>• Use a mix of materials, textures and finishes including render, timber,</td>
<td>Period reproduction styles and detailing.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>non-masonry sheeting, glazing, stone and brick.</td>
<td></td>
<td>As discussed, the variety of materials will complement the natural surrounds.</td>
</tr>
<tr>
<td><strong>To maintain the openness of the front garden to the street.</strong></td>
<td>• Provide open style front fences, other than along heavily trafficked roads.</td>
<td>High or solid front fences.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Use vegetation as an alternative where possible.</td>
<td></td>
<td>No front fencing is proposed.</td>
</tr>
</tbody>
</table>

Item 4.2 – Matters of Decision
## ATTACHMENT 4
### Clause 54 (ResCode) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>A1 Neighbourhood Character</td>
<td>Yes</td>
<td>Refer Attachment 3.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| A2 Integration with Street               | Yes                     | The dwelling appropriately addresses the street and a steel pergola over the entrance means that the entry is clearly identifiable from the Ruxton Rise streetscape. | | Minimum: 6m
| Integrate the layout of development with the street. |                         |                                                                          |
| A3 Street Setback                        | Yes                     | Minimum: 6m
| Setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site | Proposed: 6m
| A4 Building Height                       | Yes                     | Required: 8m
| Building height respects the existing or preferred neighbourhood character. | Proposed: 6.6m
| A5 Site Coverage                         | Yes                     | Maximum: 50%
| Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site. | Proposed: 46%
| A6 Permeability                          | Yes                     | Minimum: 20%                                                             |
Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration. | Proposed: 37%

A7 Energy Efficiency
Achieve and protect energy efficient dwellings.
Ensure the development's orientation and layout reduce fossil fuel energy use and makes appropriate use of daylight and solar energy. | Yes

A8 Significant Trees
Development respects the landscape character of the neighbourhood and retains significant trees on site. | Yes

A10 Side and Rear Setbacks
Ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings. | No

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Required</strong></td>
<td><strong>Proposed</strong></td>
</tr>
<tr>
<td><strong>West (side)</strong></td>
<td>2m</td>
</tr>
<tr>
<td><strong>East (side)</strong></td>
<td>0m or 2m</td>
</tr>
<tr>
<td><strong>South (rear)</strong></td>
<td>3m</td>
</tr>
</tbody>
</table>

A11 Walls on Boundaries
Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings. | No

Max. Height: 3.6m – proposed 2.8m
Average Height: 3.2m – proposed 2.5m
Max. Length: 15.07m – proposed 15.27m

A12 Daylight to existing windows
To allow adequate daylight into existing habitable room windows. | Yes

The proposal will ensure daylight to existing windows is maintained.
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>A13</td>
<td>North Facing Windows</td>
<td>Yes</td>
<td>Allow adequate solar access to existing north-facing habitable room windows. No north facing windows on adjoining properties are affected. Note: This has considered windows proposed in the concurrent application for 25F Bolton Street (2016/166)</td>
</tr>
<tr>
<td>A14</td>
<td>Overshadowing Open Space</td>
<td>Yes</td>
<td>Ensure buildings do not unreasonably overshadow existing secluded private open space. Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 September.</td>
</tr>
<tr>
<td>A15</td>
<td>Overlooking</td>
<td>Yes</td>
<td>Limit views into existing secluded private open space and habitable room windows Applicant has made notations on the plans demonstrating that this standard will be met.</td>
</tr>
<tr>
<td>A16</td>
<td>Daylight to New Windows</td>
<td>Yes</td>
<td>Allows adequate daylight into new habitable room windows. All habitable windows have direct access to daylight.</td>
</tr>
<tr>
<td>A17</td>
<td>Private Open Space</td>
<td>Yes</td>
<td>Provide adequate private open space for the recreation and service needs of residents. Minimum: 25m² secluded, 40m² overall Proposed: greater than 100m² of SPOS has been provided</td>
</tr>
<tr>
<td>A18</td>
<td>Solar Access to Open Space</td>
<td>No</td>
<td>Allow solar access into secluded private open space of a new dwelling. Required setback from north-facing wall to SPOS: 7.49m Proposed: 4m</td>
</tr>
<tr>
<td>A19</td>
<td>Design Detail</td>
<td>Yes</td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character. Refer Attachment 3.</td>
</tr>
<tr>
<td>A20</td>
<td>Front Fences</td>
<td>Yes</td>
<td>Encourage front fence design that respects the exiting or preferred neighbourhood character. Required: 1.2m Proposed: No front fence proposed</td>
</tr>
</tbody>
</table>
4.3 25C BOLTON STREET, BEAUMARIS
(FORMERLY LOT 13 - 489 BALCOMBE ROAD)
GRANT A PLANNING PERMIT
APPLICATION NO: 2017/429/1 WARD: SOUTHERN

This matter has been reported to the Planning and Amenity Committee for a
decision as a result of Councillor call-in.

1. Purpose and background

To report a planning permit application for the construction of a double storey dwelling
on a lot with an area of 435 square metres (refer Attachment 1) at 25C Bolton Street,
Beaumaris (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Trusch Design Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>10 July 2017</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>18 October 2017</td>
</tr>
</tbody>
</table>

Site History

Planning permit 2014/516 was granted on the 17 March 2015 at the direction of the
Victorian Civil and Administrative Tribunal (VCAT) for the subdivision of the former
Beaumaris RSL site at 489 Balcombe Road into 20 lots, removal of vegetation, alteration
of access to a Category 1 Road Zone and variation and removal of easements.

The permit was amended via Section 72 of the Planning and Environment Act 1987 on
the 13 October 2015 for minor amendments to the conditions. The permit was amended
again via Section 71 of the Planning and Environment Act 1987 on the 5 November 2015
to correct a minor clerical error in the original drafting of the conditions.

Individual titles for the 20 lots have been issued. A number of the conditions of the
subdivision permit, the endorsed plans and a Section 173 agreement lodged on all titles
across the site place restrictions on the development of each site. These are discussed
later in the report.

Subdivision plans have been endorsed that direct a number of aspects of the
development of individual sites, including the provision of building envelopes and
maximum building heights.

A landscape concept plan has also been endorsed for the larger site. All landscape plans
for individual lots must be consistent with the landscape concept plan.

The section 173 agreement on each title imparts obligations on the owner in relation to
the building envelope, height of development and tree protection fencing, and requires
landscape plans to be prepared for each site and arborist reports where trees are to be
retained.

It is noted the original Section 173 agreement did not allow works outside of the building
envelope. This prohibited all works that would normally be associated with a dwelling
including site cuts, driveways and letterboxes from occurring outside the building
envelope. It is acknowledged this was over and above the intent of the building
envelopes as decided by the VCAT decision and an amended Section 173 agreement
was re-drafted that reflects the intent of the VCAT decision and community expectations
for the development of the site, while enabling landowners to reasonably develop each
site. The amended section 173 was signed by all owners and Council and registered on
all titles on the 21 June 2017 (Dealing No. AN936521R).
2. **Policy implications**

   **Planning permit requirements**

   Clause 32.09-6 (Neighbourhood Residential Zone) – Construction of one dwelling on a lot.

3. **Stakeholder Consultation**

   **External referrals**

   There were no external referrals required to be made in accordance with Clause 66 of the Bayside Planning Scheme.

   **Internal referrals**

   The application was referred to the following Council departments for comment:

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drainage</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
</tbody>
</table>

   **Public notification**

   The application was advertised pursuant to Sections 52(1)(a) and (d) of the *Planning and Environment Act 1987* and no objections were received.

   **Consultation meeting**

   A consultation meeting was not required to be held for this application.

4. **Recommendation**

   That Council:

   Issues a **Planning Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning application 2017/429/1** for the land known and described as **25C Bolton Street, Beaumaris**, for the **construction of a double storey dwelling on a less than 500 square metres** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

   1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the amended plans (Drawing No: 2 – 6 (all Rev A and dated 7/11/2016) and the Landscape Concept Plan (dated 17/3/2016)) but modified to show:

   a) A longitudinal section of the driveway and basement ramp showing the grades and lengths of grades in accordance with AS2890.1.

   b) Any development changes (including site cut) and retaining walls required in accordance with Condition 1(a) of this permit.

   c) Exact location of the basement turntable including setbacks from subfloor walls.

   d) Manufacturer specifications of the basement turntable including a minimum diameter of 4.5 metres.

   e) Exact location of the basement car parking spaces – a minimum of two (2) car parking spaces must be clearly shown.
f) Length and width of the car parking spaces in accordance with AS2890.1.
g) A Water Sensitive Urban Design response in accordance with Condition 7 of this permit.
h) A schedule of construction materials, external finishes and colours.

2. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

3. Before the occupation of the site commences or by such later date as is approved in writing by the Responsible Authority, all buildings and works must be carried out and completed to the satisfaction of the Responsible Authority.

4. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.

5. All pipes (excluding downpipes), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

6. Before occupation, screening of windows and roof decks including fixed privacy screens be designed to limit overlooking as required by Standard A15 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

7. Before the development starts, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must show:
   a) The type of water sensitive urban design stormwater treatment measures to be used.
   b) The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaped areas.
   c) Design details of the water sensitive urban design stormwater treatment measures, including cross sections.

   These plans must be accompanied by a report from an industry accepted performance measurement tool which details the treatment performance achieved and demonstrates the level of compliance with the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999.

8. Before the occupation of the development starts, the areas set aside for vehicle parking and accessways must be constructed, drained and line marked to the satisfaction of the Responsible Authority. Such areas must be kept available for these purposes at all times.

9. Before the occupation of the development starts, new or altered vehicle crossing servicing the development must be constructed to the satisfaction of the Responsible Authority and any existing disused or redundant crossing or crossing opening must be removed and replaced with footpath/nature strip/kerb and channel, to the satisfaction of the Responsible Authority.

10. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape plan, prepared by John Patrick Landscape Architects Pty Ltd and dated November 2016 and be drawn to scale with dimensions and three copies must be provided. The plan must show:
a) Quantities of shrubs, climbers and ground covers to be detailed.

11. Before the occupation of the development the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

12. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

13. Before the development starts, the permit holder must apply to Council for the Legal Point of Discharge for the development from where storm-water is drained under gravity to the Council network.

14. Before the development, detailed plans indicating, but not limited to, the method of storm-water discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council’s Infrastructure Assets Department.

15. Prior to endorsement of the plan/s required under Condition 1 of this permit, the permit holder must pay a drainage levy in accordance with the amount specified under the Bayside Drainage Development Contributions Plan. The levy amount payable will be adjusted to include the Building Price Index applicable at the time of payment.

The levy payment shall be submitted to Council with the Bayside Drainage Contributions Levy Charge Sheet and it must include the Building Price Index applicable at the time of payment.

16. This permit will expire if one of the following circumstances applies:

a) The development is not started within two years of the date of this permit.

b) The development is not completed within four years of the date of this permit.

In accordance with Section 69 of the Planning and Environment Act 1987, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.

Permit notes

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.

- Construction of any fence / wall / letterbox structures may necessitate removal / damage of some sections of footpath. If this is the case, a ‘Road Opening Permit’ must be obtained to facilitate such work.

- A ‘Road Opening / Stormwater Tapping Permit’ is to be obtained from the Infrastructure Department prior to the commencement of the connection to the Council Drain / kerb / channel.

- Council records indicate that there is no easement within the property.

- Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.”
5. Council Policy

Council Plan 2017-2021

Relevant strategic objectives of the Council plan include:

- Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.
- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.
- Where a range of housing types is provided to accommodate the changing needs of the community, enabling people to age in place and providing opportunities for young adults and families to live and remain in the municipality.

Relevant strategies of the Council plan include:

- Make discretionary planning controls stronger, by advocating for Council’s planning and urban design objectives to state government.

Bayside Planning Scheme

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 22.06 Neighbourhood Character Policy
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 42.03 Vegetation Protection Overlay (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 3)
- Clause 45.06 Development Contributions Plan Overlay (Schedule 1)
- Clause 52.06 Car Parking
- Clause 54 One dwelling on a lot
- Clause 65 Decision Guidelines

6. Considerations

In considering this application, regard has been given to the State and Local Planning Policy Frameworks, the provisions of the Bayside Planning Scheme, objections received and the individual merits of the application.

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct H3 and the proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The proposal is considered to achieve a level of planting across the site consistent with the endorsed landscape concept plan and the bushy garden character sought by the
preferred future character for the area. The proposal retains sufficient space around the
dwelling to accommodate this level of vegetation.

Given the slope and undulation of the site, a level of disturbance is unavoidable,
particularly given the 8 metre height limit prescribed for the site in the endorsed
subdivision plans. The need to establish a useable area of private open space to the
rear of the dwelling is also acknowledged. Given this, the proposed site cuts are not
considered excessive.

The proposed design is typical of a number of contemporary properties in the area. The
proposal is considered to contribute an acceptable level of visual engagement to the
streetscape. The proposed basement garage is recessed 600mm behind the primary
façade wall and is sought to be dug-in below natural ground level. This is likely to
significantly reduce the visual impact of car parking structures when viewed from the
Bolton Street streetscape.

The dwelling would utilise selected stone, render and horizontal timber cladding.
Window joinery would be in aluminium. The materials proposed are in keeping with a
number of similar developments in the surrounding area and the proposal is considered
to respond to the existing neighbourhood character. No front fencing is proposed as a
part of the application and, in time, landscaping will soften views to the dwelling from the
footpath.

### 6.2. Compliance with Clause 54 (ResCode)

An assessment against the requirements of Clause 54 is provided at Attachment 4. Those non-compliant standards are discussed below

**Side and rear setbacks (Standard A10)**

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>West (side)</td>
<td>0m or 2m</td>
</tr>
<tr>
<td>East (side)</td>
<td>2m</td>
</tr>
<tr>
<td>North (rear)</td>
<td>0m or 3m</td>
</tr>
</tbody>
</table>

The proposal seeks a variation to the setback standards in the south-western corner of
the site by 500mm. The objective for side and rear setbacks is to ensure the height and
setback of a building from a boundary respects the existing or preferred neighbourhood
character and limits the impact on the amenity of existing dwellings.

At 3.75 metres setback from the western boundary, a staggered variation to Standard
A10 is required with a maximum variation of 500mm. This variation reduces as the slope
of the land increases to the north, away from Bolton Street. The proposed built form is
considered to achieve the objective in this instance, as the variation will achieve the
preferred neighbourhood character associated with Precinct H3.

A concurrent application has been submitted to Council for 25B Bolton Street which
proposes a 4 metre setback along the eastern interface with 25C Bolton. If built, this
would achieve a separation of 7.75 metres between the first floors of the dwellings,
delivering a level of built form consistency while retaining a visual separation between
the two dwellings. Further, the increased height of the western first floor is achieved by
minimising site excavation. This further reflects a positive response to the preferred
neighbourhood character. As such, Officers consider that the setback variation achieves
the relevant objective and is recommended for support.
6.3. **Bolton Street setback**

The original subdivision permit issued at the direction of VCAT did not include a condition to alter the setback of building envelopes to Bolton Street; despite commentary in the decision indicating that a 9 metre setback would be appropriate. Subdivision plans were correctly endorsed by Council with a six metre setback to Bolton Street on this basis. Council wrote to VCAT in November 2016 to bring this discrepancy to the Tribunal’s attention; however following a review by the Deputy President, VCAT declined to amend the 2015 permit or the endorsed plans.

There are a range of setbacks in the area typified by the large setback to No.25 Bolton Street and the relatively smaller setbacks on the southern side of Bolton Street, opposite the former Beaumaris RSL site. Officers consider the existing and preferred neighbourhood character of the surrounding area supports a street setback from Bolton Street larger than six metres. It is acknowledged the development of the former Beaumaris RSL site is an unusual situation where a number of individual applications have been made for a row of properties all fronting Bolton Street. Concurrent applications made for adjacent sites and the location of built form directed by the size and shape of the lots are all considerations in the appropriate street setbacks for each individual lot.

The ground floor of the proposal would be setback 6.25 metres and 6.8 metres from the street, while the first floor would be setback 6.2 metres and 6.8 metres. The lot boundaries of 25B to 25F Bolton Street all align and as such a consistent street setback for these properties would be desirable. Planning permit 2016/744 was issued for 25D Bolton Street at the Planning & Amenity Committee meeting on 15 August 2017 – the committee allowed a street setback of 6.214 metres for this permit. A concurrent application is with the planning department for 25B Bolton Street which proposes a 6.2 metre setback.

The objective of the street setback control (Standard A3) is to ensure that the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site. It is noted a number of dwellings have lesser setbacks in the established lots in the vicinity, notably the dwellings with side setbacks to Bolton Street directly west of Haydens Road. This is a position consistent with the findings of the VCAT members in Red Star Beaumaris Pty Ltd v Bayside CC [2015] VCAT P1885.

The preferred neighbourhood character precinct speaks to bushy gardens dominating the streetscape, dwellings set within the landscape, which are sometimes sited to take advantage of water views without dominating the streetscape, minimising impervious surfaces in front garden spaces to ensure space for planting and ensuring adequate space is provided around buildings for the planting of vegetation. In this context the level of planting achieved in the front setback is considered to be an important consideration of whether a sufficient setback has been achieved.

As discussed in Section 6.5 of this report, the landscape plan submitted in support of the application proposes four canopy trees in the front garden. While there is a degree of hard surfacing within the front setback, the level of planting associated with the landscape plan is considered an appropriate reflection on the preferred neighbourhood character.

Given the approved street setback at 25D Bolton Street, the level of landscaping within the front garden and the contribution to the preferred neighbourhood character, it is considered that a street setback of 6.2 metres is appropriate for this site.

6.4. **Car parking and traffic**

The dwelling is provided with a basement car parking area which allows space for two car parking spaces, as required under Clause 52.06 of the Bayside Planning Scheme. Council’s Traffic Engineer has reviewed the application and advises they have no objection subject to conditions regarding access from Bolton Street, the driveway and ramp, the mechanical turntable and car parking spaces.
The level of increased traffic generated by the proposed development will not adversely impact the local road network and Council’s Traffic Engineers has raised no objection in this regard.

6.5. **Vegetation & Landscaping**

A landscape concept plan, prepared by John Patrick Landscape Architects Pty Ltd, was endorsed in accordance with subdivision permit 2014/516/2. Pursuant to the Section 173 agreement all development applications for individual sites must be accompanied by a landscape plan that is generally consistent with the endorsed landscape concept plan. The landscape concept plan identifies two Coast Banksia (*Banksia integrifolia*) and a Black She-oak (*Allocasuarina littoralis*) to be planted on-site.

A landscape plan for the site, prepared by John Patrick Landscape Architects Pty Ltd and dated November 2016, has been submitted in support of the application. It is considered that the proposed canopy tree planting accords with the endorsed landscape plan. It is noted the shrubs proposed are not in accordance with the planting schedule of the landscape concept plan. The wording “consistent with” is considered to be a higher test than the commonly used “generally in accordance with”.

In this context it is considered appropriate for the proposed canopy tree planting for the site to be in accordance with the landscape concept plan; however the shrubs may deviate from the planting palette in the endorsed landscape concept plan provided the alternative design achieves a sufficient bushy garden character with the use of a high level of native species.

The proposed landscape plan provides one Coast Banksia (*Banksia integrifolia*) and three Black She-oak (*Allocasuarina littoralis*) in the front setback and one Coast Banksia in the rear setback. These trees are proposed to be complemented with a palette of shrubs, groundcovers and grasses. While this planting is not entirely in accordance with the endorsed landscape concept plan, it contains a significant number of native and indigenous species. Quantities of shrubs, climbers and groundcovers are not provided and a condition of approval is recommended to address this. Subject to the recommended conditions of approval, the proposed landscape plan would respond to the preferred bushy garden character sought for the area and be consistent with the endorsed landscape plan.

**Support Attachments**

1. Development Plans ↓
2. Site Surrounds and Imagery ↓
3. Neighbourhood Character Assessment ↓
4. Clause 54 (ResCode) Assessment ↓
Item 4.3 – Matters of Decision
Item 4.3 – Matters of Decision
Item 4.3 – Matters of Decision

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Item 4.3 – Matters of Decision
Figure 1. Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
</tr>
</tbody>
</table>
Figure 2. View to 25C Bolton Street looking west from 25D Bolton Street

Figure 3. View toward Bolton Street looking south from 25C Bolton Street
Figure 4. View from Bolton Street footpath looking north to 25C Bolton Street
ATTACHMENT 3
Neighbourhood Character (Precinct H3) Assessment

Preferred Future Character Statement

The bushy gardens surrounding the dwellings dominate the streetscapes. Where the topography is hilly, the buildings are set within the landscape, and are sometimes sited to take advantage of water views without dominating the streetscape. Adequate space is provided around dwellings for the retention and planting of vegetation, and indigenous canopy trees are common. Low or open style front fences are usually provided, in order to retain the openness of the front garden to the street.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To strengthen the bushy garden character of the area through the planting of appropriate species. | • Retain large established trees and understorey, and provide for the planting of new indigenous trees wherever possible (locate footings outside root zone).  
• Prepare a landscape plan to accompany all applications for new dwellings that utilises appropriate native, preferably indigenous, vegetation.  
• Minimise impervious surfaces particularly in front garden spaces to ensure space for plantings. | Lack of landscaping and substantial vegetation.  
Removal of large established trees.  
Planting of environmental weeds | Responds  
A landscape plan has been submitted and includes the planting of multiple native trees within the site. It is considered that the level of landscaping is a positive reflection on the preferred neighbourhood character. |
| To maintain the rhythm of spacious visual separation between buildings and ensure adequate space is provided around buildings for the retention and planting of vegetation. | • Buildings should be sited to allow space for a garden, including trees and shrubs.  
• Buildings should be sited to create the appearance of space between buildings and accommodate vegetation. | Loss of front garden space. | Responds  
The dwelling is within the building parcel approved as a part of the subdivision permit (2014/516/2) which allows for an appropriate spread of dwellings within the new site. |
<p>| To minimise the loss of front garden spaces and the | • Locate garages and carports behind the line of the dwelling. | Car parking structures that | Responds |</p>
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>dominance of car parking structures.</td>
<td>• Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space.</td>
<td>dominate the façade or view of the dwelling.</td>
<td>The garage is located behind the primary façade of the dwelling and is dug-in to ground. This minimises the visual intrusion of car parking structures and the front setback is sought to be landscaped.</td>
</tr>
<tr>
<td>To minimise site disturbance and impact of the building on the landscape.</td>
<td>• Buildings should be designed to follow the contours of the site on sloping sites.</td>
<td>Major excavation works and site levelling.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Minimise the use of retaining walls and battering of slopes.</td>
<td>Buildings that protrude above the tree canopy height.</td>
<td>While significant excavation is proposed on the site, it is considered necessary in order to allow this undulating land to be developed. The design of the dwelling reduces the need for retaining walls on and off-site.</td>
</tr>
<tr>
<td></td>
<td>• Design new buildings and extensions so as not to exceed the predominant tree canopy height.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To ensure that new buildings provide an articulated and interesting façade to the street.</td>
<td>• Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, combinations of materials, textures or colours or other elements providing appropriate articulation.</td>
<td>Large, bulky buildings Poorly articulated front and side wall surfaces.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Recess upper levels from the front façade.</td>
<td></td>
<td>This proposal incorporates a variety of materials and screening in order to present an interesting and naturally complementary built form.</td>
</tr>
<tr>
<td>To use building materials and finishes that complement the natural setting.</td>
<td>• Use a mix of materials, textures and finishes including render, timber, non-masonry sheeting, glazing, stone and brick.</td>
<td>Period reproduction styles and detailing.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>As discussed, the variety of materials will complement the natural surrounds.</td>
</tr>
<tr>
<td>To maintain the openness of the front garden to the street.</td>
<td>• Provide open style front fences, other than along heavily trafficked roads.</td>
<td>High or solid front fences.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Use vegetation as an alternative where possible.</td>
<td></td>
<td>No front fencing is proposed.</td>
</tr>
</tbody>
</table>
## ATTACHMENT 4
### Clause 54 (ResCode) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer Attachment 3.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A2 Integration with Street</strong></td>
<td>Yes</td>
<td>The dwelling appropriately addresses the street and a pergola over the entrance means that the entry is clearly identifiable from the streetscape.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A3 Street Setback</strong></td>
<td>Yes</td>
<td>Minimum: 6.2m</td>
</tr>
<tr>
<td>Setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</td>
<td></td>
<td>Proposed: 6.2m</td>
</tr>
<tr>
<td></td>
<td>Note: The street setback is set by the building parcel approved under the original subdivision permit (2014/516/2).</td>
<td></td>
</tr>
<tr>
<td><strong>A4 Building Height</strong></td>
<td>Yes</td>
<td>Required: 8m</td>
</tr>
<tr>
<td>Building height respects the existing or preferred neighbourhood character.</td>
<td></td>
<td>Proposed: 6.9m</td>
</tr>
<tr>
<td></td>
<td>Note: The height limit is specified in sheet 3 of 7 of the previously endorsed plans for the original subdivision permit (2014/516/2).</td>
<td></td>
</tr>
<tr>
<td><strong>A5 Site Coverage</strong></td>
<td>Yes</td>
<td>Maximum: 50%</td>
</tr>
<tr>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td></td>
<td>Proposed: 43%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A6 Permeability</strong></td>
<td>Yes</td>
<td>Minimum: 20%</td>
</tr>
<tr>
<td>Reduce the impact of stormwater run-off on the</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
drainage system and facilitate on-site stormwater infiltration.

<table>
<thead>
<tr>
<th>A7 Energy Efficiency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Achieve and protect energy efficient dwellings.</td>
</tr>
<tr>
<td>Ensure the development's orientation and layout reduce fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
</tr>
<tr>
<td>Yes</td>
</tr>
<tr>
<td>Proposed: 37%</td>
</tr>
<tr>
<td>All habitable areas, including habitable rooms and secluded private open spaces would be appropriately located in relation to the orientation of the site.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A8 Significant Trees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development respects the landscape character of the neighbourhood and retains significant trees on site.</td>
</tr>
<tr>
<td>Yes</td>
</tr>
<tr>
<td>No significant trees are located on the lot and landscaping is in accordance with the approved plan under permit 2014/516/2.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A10 Side and Rear Setbacks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.</td>
</tr>
<tr>
<td>No</td>
</tr>
<tr>
<td>Refer report and table below. Areas of non-compliance are underlined.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>West (side)</td>
<td>0m or 2m</td>
</tr>
<tr>
<td>East (side)</td>
<td>2m</td>
</tr>
<tr>
<td>North (rear)</td>
<td>0m or 3m</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A11 Walls on Boundaries</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.</td>
</tr>
<tr>
<td>Yes</td>
</tr>
<tr>
<td>No walls are proposed on site boundaries.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A12 Daylight to existing windows</th>
</tr>
</thead>
<tbody>
<tr>
<td>To allow adequate daylight into existing habitable room windows.</td>
</tr>
<tr>
<td>Yes</td>
</tr>
<tr>
<td>The proposal is well setback from property boundaries to ensure daylight to existing windows is maintained.</td>
</tr>
<tr>
<td>Item</td>
</tr>
<tr>
<td>------</td>
</tr>
<tr>
<td>A13 North Facing Windows</td>
</tr>
<tr>
<td>A14 Overshadowing Open Space</td>
</tr>
<tr>
<td>A15 Overlooking</td>
</tr>
<tr>
<td>A16 Daylight to New Windows</td>
</tr>
<tr>
<td>A17 Private Open Space</td>
</tr>
<tr>
<td>A18 Solar Access to Open Space</td>
</tr>
<tr>
<td>A19 Design Detail</td>
</tr>
<tr>
<td>A20 Front Fences</td>
</tr>
</tbody>
</table>
1. **Purpose and background**

To report a planning application which is the subject of an appeal to the Victorian Civil and Administrative Tribunal (VCAT) pursuant to Section 79 of the *Planning and Environment Act 1987*. The application is for the development of the land for an aged care facility, advertising signage, and associated works (refer Attachment 1) at 68 & 76 Union Street and 26 Milliara Grove, Brighton East (refer Attachment 2).

This Application for Review has been initiated by the applicant (Residential Processing Services Pty Ltd) under Section 79 of the *Planning & Environment Act 1987*, against Bayside City Council's Failure to make a decision within the prescribed time.

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Residential Processing Services Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>30 May 2017</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>4 August 2017</td>
</tr>
</tbody>
</table>

2. **Policy implications**

**Planning permit requirements**

Clause 32.09 (Neighbourhood Residential Zone – Schedule 3) – Construction of a residential building.

Clause 52.05-9 – (Advertising signs) High amenity areas (Category 3) as identified in Clause 32.09-13 – Advertising signs.

3. **Stakeholder Consultation**

**External referrals**

There were no external referrals required to be made in accordance with Clause 66 of the Bayside Planning Scheme.

**Internal referrals**

The application was referred to the following Council departments for comment:

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>Requests an updated arborist report to include a Tree Management Plan and Tree Protection Plan.</td>
</tr>
<tr>
<td>Waste Coordinator</td>
<td>No objection.</td>
</tr>
<tr>
<td>Drainage Engineer</td>
<td>No objection.</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>No objection, subject to clarification.</td>
</tr>
</tbody>
</table>

**Public notification**

The application was advertised pursuant to Sections 52(1) (a) and (d) of the *Planning and Environment Act 1987* and eight objections were received. The following concerns were raised:

- Proximity to neighbouring properties/boundaries;
- Height and bulk of proposed building;
- Overlooking – insufficient screening provided;
- Overshadowing;
- Impact on Berkeley Grove Heritage Precinct (HO650);
- Loss of trees;
- Lack of engineering report in relation to basement parking;
- Location of gas meter; and,
- Impacts of construction on neighbouring property – clarification required.

Consultation meeting

No consultation meeting was held as the applicant lodged an appeal under Section 79 of the Planning and Environment Act 1987 for failure to grant a planning permit within the prescribed time.

A Compulsory Conference was held by VCAT on 23 October 2017. Parties did not agree on an outcome and therefore the application is proceeding to a Merits Hearing on 11 December 2017 for 3 days.

4. **Recommendation**

That Council having complied with Sections 52, 58, 60, 61 and 62 of the *Planning and Environment Act 1987*, advises VCAT, the applicant and objectors that, had an appeal not been lodged, it would have issued a [Notice of Decision to Grant a Permit](#) under the provisions of the Bayside Planning Scheme in respect to Planning Application 2017/144/1 for the land known and described as at 68 & 76 Union Street and 26 Milliara Grove, Brighton East for the development of the land for an aged care facility, advertising signage, and associated works in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the advertised plans but modified to show:
   a) Compliance with Standard B17 (Side and Rear Setbacks) of the Bayside Planning Scheme along the eastern and southern boundaries.
   b) Compliance with Standard B22 (Overlooking) of the Bayside Planning Scheme along the eastern, southern and western boundaries.
   c) Provision of the western elevation to show the full extent of the elevation including the rear projection to Milliara Grove.
   d) Provision of sufficient landscape buffer along the south-western corner between the abutting allotments boundary fence and the proposed gas meter to the satisfaction of the responsible authority.
   e) Details of the ramp to the basement parking, including headroom, grade, provision of convex mirror.
   f) Details of the headroom clearance under the porte cochere.
   g) Swept path diagrams for a 7.2m CPAV ambulance.
   h) Water sensitive urban design measures in accordance with condition 8.
   i) Landscaping plan in accordance with condition 12.
j) A schedule to construction materials, external finishes and colours (incorporating for examples paint samples).

All to the satisfaction of the responsible authority.

2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason (unless the Bayside Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.

3. Before the occupation of the site commences or by such later date as is approved in writing by the Responsible Authority, all buildings and works must be carried out and completed to the satisfaction of the Responsible Authority.

4. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.

5. All pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

6. The walls on the boundary of the adjoining properties shall be cleaned and finished to the satisfaction of the Responsible Authority.

7. Before occupation, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard B22 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

Water Sensitive Urban Design

8. Before the development starts, detailed plans to the satisfaction of the Responsible Authority must be submitted to and endorsed by the Responsible Authority. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must show:

a) The type of water sensitive urban design stormwater treatment measures to be used.

b) The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaped areas.

c) Design details of the water sensitive urban design stormwater treatment measures, including cross sections.

These plans must be accompanied by a report from an industry accepted performance measurement tool which details the treatment performance achieved and demonstrates the level of compliance with the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999.

9. The water sensitive urban design stormwater treatment system as shown on the endorsed plans must be retained and maintained at all times in accordance with the Urban Stormwater - Best Practice Environmental Management Guidelines, CSIRO 1999, to the satisfaction of the Responsible Authority.

Traffic/Drainage

10. Before the use starts, a Traffic and Parking Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. Traffic and parking operations on and adjacent to the site must conform to this endorsed plan. Three copies of the plan must be submitted. The plan must include:
a) An updated parking survey to include land to the east of the site closer to Hawthorn Road.
b) The location of all areas on-and/or off-site to be used for staff and patron parking.
c) Specification of staff numbers adequate to enable efficient operation of car parking areas both on- and off-site.
d) The number and location of all on- and off-site security staff.
e) The means by which the direction of traffic and pedestrian flows to and from car parking areas will be controlled both on- and off-site.
f) Measures to preclude staff parking in designated patron car parking areas.
   i) Servicing of the drainage and maintenance of car parking areas.

11. The loading and unloading of vehicles and the delivery of goods to and from the premises must at all times be conducted entirely within the site and in a manner that limits interference with other vehicular traffic to the satisfaction of the Responsible Authority.

Landscaping

12. Before the development starts, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by Memla, reference LC1, dated 9 February 2017 and be drawn to scale with dimensions and three copies must be provided. The plan must show:
   a) A survey, including, botanical names of all existing trees and vegetation to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009.
   b) A survey including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
   c) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
   d) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
   e) Details of surface finishes of pathways and driveways

13. Before the occupation of the development the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

14. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

15. Before the development starts, a Tree Management Plan (report) and Tree Protection Plan (drawing), to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority.

The Tree Management Plan (report) must be specific to the site, be in accordance with Australian Standard: Protection of Trees on Development Sites AS4970-2009 and include:
- Details of Tree Protection Zones for all trees to be retained on the site and for all trees on neighbouring properties where any part of the Tree Protection Zone falls within the subject site;
- Comment on methods to be utilised and instruction on how to deploy them;
- Comment on when the protection measures are to be deployed;
- Comment on when the protection measures can be modified;
- Process that will be followed if any damage occurs to a tree;
- Process that will be followed if construction works require alteration to protection measures outlined in report; and
- Stages of development at which inspections will occur.

Any proposed alteration to the plan must be assessed by the site arborist and can only occur following the approval of the site arborist. Such approval must be noted and provided to the Responsible Authority within 28 working days of a written request.

Any damaged tree must be inspected by the site arborist without any delay and remedial actions undertaken. Such actions must be documented.

The Tree Protection Plan must be drawn to scale and show:
- The location of all tree protection measures to be utilised.

If tree protection measures are proposed to be changed during the development, one plan for each stage of tree protection measures must be submitted.

16. All protection measures identified in the Tree Management and Protection Plans must be implemented, and development works undertaken on the land must be undertaken in accordance with the Tree Management and Protection Plans, to the satisfaction of the Responsible Authority.

17. Before the development starts, including demolition or removal of vegetation, the name and contact details of the project arborist responsible for implementing the Tree Management Plan must be submitted to the Responsible Authority.

18. Waste management measures for the site must be in accordance with the advertised Waste Management Plan prepared by One Mile Grid dated 22 March 2017.

19. Before the commencement of works, a Construction Management Plan (CMP), to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit and shall thereafter be complied with. The CMP must specify and deal with, but not be limited to the following as applicable:
   a) A detailed schedule of works including a full project timing.
   b) A traffic management plan for the site, including when or whether any access points would be required to be blocked, an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services, preferred routes for trucks delivering to the site, queuing/sequencing, excavation and swept-path diagrams.
   c) The location for the parking of all construction vehicles and construction worker vehicles during construction.
   d) Delivery of materials including times for loading/unloading, unloading points, expected frequency and details of where materials will be stored and how concrete pours would be managed.
e) Proposed traffic management signage indicating any inconvenience generated by construction.

f) Fully detailed plan indicating where construction hoardings would be located.

g) A waste management plan including the containment of waste on site: disposal of waste, stormwater treatment and on-site facilities for vehicle washing.

h) Containment of dust, dirt and mud within the site and method and frequency of clean up procedures in the event of build-up of matter outside the site.

i) Site security.

j) Public safety measures.

k) Construction times, noise and vibration controls.

l) Restoration of any Council assets removed and/or damaged during construction.

m) Protection works necessary to road and other infrastructure (limited to an area reasonable proximate to the site).

n) Remediation of any damage to road and other infrastructure (limited to an area reasonably proximate to the site).

o) An emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experience.


q) All contractors associated with the construction of the development must be made aware of the requirements of the Construction Management Plan.

r) Details of crane activities, if any.

20. Prior to endorsement of the plan/s the permit holder must pay a drainage levy in accordance with the amount specified under the Bayside Drainage Development Contributions Plan. The levy amount payable will be adjusted to include the Building Price Index applicable at the time of payment.

The levy payment shall be submitted to Council with the Bayside Drainage Contributions Levy Charge Sheet and it must include the Building Price Index applicable at the time of payment.

Noise

21. Noise emanating from the subject land must not exceed the permissible noise levels when determined in accordance with State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1, to the satisfaction of the Responsible Authority. Any works required to ensure and maintain the noise levels must be completed prior to the commencement of the use or occupation of the site and maintained thereafter, all to the satisfaction of the Responsible Authority.
**Signage**

22. The location and details of the sign/s, including those of the supporting structure, as shown on the endorsed plans, must not be altered without the written consent of the Responsible Authority.

23. All signs must be located wholly within the boundaries of the land.

24. The sign lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.

25. The signs must be constructed and maintained to the satisfaction of the Responsible Authority.

**Signage Expiry**

26. This permit expires 15 years from the date of issue.

**Permit Expiry**

27. This permit will expire if one of the following circumstances applies:
   a) The development is not started within two years of the date of this permit.
   b) The development is not completed within four years of the date of this permit.

In accordance with Section 69 of the *Planning and Environment Act 1987*, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.

5. **Council Policy**

   **Council Plan 2017-2021**

   Relevant strategic objectives of the Council plan include:
   - Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.
   - Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.
   - Where a range of housing types is provided to accommodate the changing needs of the community, enabling people to age in place and providing opportunities for young adults and families to live and remain in the municipality.

   Relevant strategies of the Council plan include:
   - Make discretionary planning controls stronger, by advocating for Council’s planning and urban design objectives to state government.

   **Bayside Planning Scheme**
   - Clause 9 Plan Melbourne
   - Clause 11 Settlement
   - Clause 15 Built Environment and Heritage
   - Clause 16 Housing
   - Clause 21.02 Bayside Key Issues and Strategic Vision
   - Clause 21.03 Settlement and Housing
   - Clause 21.06 Built Environment and Heritage
6. Considerations

In considering this application, regard has been given to the State and Local Planning Policy Frameworks, the provisions of the Bayside Planning Scheme, objections received and the individual merits of the application.

6.1 Discretionary Uses in Residential Areas

The site is zoned Neighbourhood Residential, the final purpose of which reads “to allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.”

This is further reflected in Council’s Municipal Strategic Statement which recognises that ‘there are a number of important uses that should be located within residential areas of the municipality, including nursing homes and residential villages’. Under the Bayside Planning Scheme, a residential aged care facility is included under the definition of residential village.

Clause 22.07 of the Bayside Planning Scheme does provide a set of guiding principles for assessing the appropriateness of the location for the intended use. These are ‘preferred’ locations and not mandatory, which suggests that other locations can also be appropriate. It should be noted that there was a former aged care facility established on the site which has only recently been demolished.

The preferred locational criteria and an assessment against these criteria is as follows:
The discretionary use abuts a Road Zone or collector road. Other locations may only be favourably considered where it can be demonstrated that residential amenity will not be unreasonably compromised.

The site is located approximately 80 metres west of Hawthorn Road, which is a Road Zone Category 1. As stated previously in this report, this site has previously been used for an aged care facility. The main vehicular access to the site will utilise the existing access off Union Street.

Site consolidation is encouraged to ensure adequate on-site parking, landscaping and setbacks are provided.

The site represents three parcels of land which together have an area of approximately 5,700 square metres. Adequate parking is provided in the basement and conditions are included in the recommendation to allow for greater setbacks and landscaping.

The discretionary use is on a corner site.

The site is not located on a corner but will be located in close proximity to Hawthorn Road, a Road Zone Category 1.

The discretionary use is located on the periphery of commercial areas or adjacent to other discretionary uses to provide a transition between commercial and residential areas.

The site is located approximately 400 metres to the east of the commercially zoned land along the Nepean Highway. The site was previously used as a residential aged care facility, although the former buildings have recently been demolished.

The discretionary use is located near similar community and support facilities.

The site is located in a residential area where there was a previous aged care facility.

The discretionary use is located within walking distance of public transport and promotes safe and convenient pedestrian access.

The site is located within 80 metres of Hawthorn Road where there are bus and tram routes. It is also about 400 metres away from the Nepean Highway.

The proposal meets the majority of the preferred location criteria and importantly is considered to meet the objectives of this clause particularly in respect to neighbourhood character, preserving residential amenity and traffic/car parking.

Although the site is not located on a corner, or the periphery of a commercial area, the use has already been previously established on the site. This proposal is for brand new residential aged care facility. In this instance the site is considered to be an acceptable location for the proposed development.

6.2 Neighbourhood character

The site is located within Neighbourhood Character Precinct D1 and the proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3, subject to conditions.

The proposed building is three storeys with flat roof and contemporary design. The first floor is not recessed from the front façade, nor is the second floor, although it has a smaller footprint.
The proposed design is considered to be appropriate however the visual bulk and mass needs to be reduced through conditions, which will provide a better built form response for the surrounding area.

Whilst a degree of spacing is provided between the proposed building and the boundaries, it does not allow for substantial vegetation to be accommodated. Conditions are therefore included in the recommended to increase the side setbacks to allow for more planting.

The front façade of the building will be adequately articulated, but this is not the case in respect of the side walls, which lack variation in setback from the side boundaries. A condition will be imposed requiring a greater degree of articulation along the eastern and western sides of the building.

Basement parking is proposed for the development with a single access off Union Street. This access also allows for vehicle entry to the front of the building, with a separate exit via a porte cochere. Sufficient space is also provided in the front setback for generous landscaping.

The proposal incorporates a variety of materials including glazing and render in a contemporary design. The colour palette is of muted tones, reflecting the surrounding streetscape.

6.3 **Compliance with Clause 55 (ResCode)**

An assessment against the requirements of Clause 55 is provided at Attachment 4. Those non-compliant standards are discussed below:

**Dwelling Diversity (Standard B3)**

The proposal is for an aged care facility and will provide 124 bedrooms, six of which will be fully assisted. There are five different room layouts of varying sizes, which allow for a degree of diversity within the development. Given the type of accommodation as an aged care facility, this is considered to be acceptable.

**Site Coverage (Standard B8)**

The proposed site coverage is marginally over the allowed 50% at 51.64%. As set out below conditions are recommended to increase the setbacks to achieve compliance with Standard B17. As a result, the level of site coverage will decrease, which will bring it in line with the required 50%.

**Side and Rear Setbacks (Standard B17)**

<table>
<thead>
<tr>
<th></th>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td><strong>East (side)</strong></td>
<td>0-0.2m or 2.0m</td>
<td>3.643m (min)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>West (side)</strong></td>
<td>0-0.2m or 2.0m</td>
<td>4.55m (min)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>South (rear)</strong></td>
<td>0-0.2m or 3.0m</td>
<td>4.062m (min)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Second Floor

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>East (side)</td>
<td>7.18m</td>
<td>5.28m</td>
</tr>
<tr>
<td></td>
<td>6.18m</td>
<td>4.54m</td>
</tr>
<tr>
<td></td>
<td>6.18m</td>
<td>6.91m</td>
</tr>
<tr>
<td>West (side)</td>
<td>3.98m – 8.18m</td>
<td>5.5m</td>
</tr>
<tr>
<td>South (rear)</td>
<td>7.98m</td>
<td>5.07m</td>
</tr>
<tr>
<td></td>
<td>5.58m</td>
<td>8.9m</td>
</tr>
</tbody>
</table>

It should be noted that the above measurements have been taken from natural ground level and to the walls of the building. A significant amount of excavation across the site is being proposed. In addition, the second floor terraces project beyond the walls, adding significant visual bulk.

The justification put forward by the applicant is that the building has been designed to incorporate regulations regarding the location of services and provide a best care model. Whilst it is commendable to meet the regulations, the visual bulk and proximity to the boundaries needs to be reduced.

On the western elevation, the building will be cut into the site quite significantly. As a result only the two upper floors will be visible. The first floor is compliant with the standard. The second floor has an element of non-compliance – this is due to the sloping topography. The first 12 metres of the building are where this element of non-compliance occurs, setting back from the streetscape. Given that this depth is only a small area of the entire length of the western elevation, it is considered in this instance to be acceptable to vary the standard for the second floor setback on the western elevation.

The level of non-compliance and proximity to the eastern and southern boundaries are however unacceptable. Conditions are therefore included within the recommendation to ensure that the setbacks comply with the standard.

Overlooking (Standard B22)

The submitted plans show that 1.5m high privacy screens will be installed to prevent overlooking of any existing windows within a 9 metre visibility arc. This does not meet the required standard which is 1.7m. The justification provided by the applicant that the residents will have limited mobility is considered to be too generic. Not all of the residents will have limited mobility. A condition is therefore included within the recommendation requiring screening of windows to meet the requirements of standard B22.

Private Open Space (Standard B28)

The proposed development is for an aged care facility. Over 50% of the bedrooms have been provided with an external terrace, with all residents having access to communal external terraces and courtyards. Given the nature of the use of the proposed development, this level of private open space is considered acceptable.

Storage (Standard B30)

Residents will not have individual storage cages, however sufficient space is provided within each bedroom type. This is an acceptable arrangement given the type of facility being provided.
6.4 Car parking and traffic

The purpose of Clause 52.06 (Car Parking) is to:

- To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.
- To support sustainable transport alternatives to the motor car.
- To promote the efficient use of car parking spaces through the consolidation of car parking facilities.
- To ensure that car parking does not adversely affect the amenity of the locality.
- To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.

The development proposes the following:

<table>
<thead>
<tr>
<th>Proposed Use</th>
<th>Quantity / Size</th>
<th>Statutory Parking Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential aged care facility</td>
<td>0.3 to each lodging room</td>
<td>37 spaces (124 rooms)</td>
</tr>
<tr>
<td><strong>Total car spaces required</strong></td>
<td></td>
<td><strong>37</strong></td>
</tr>
<tr>
<td><strong>Total car spaces proposed</strong></td>
<td></td>
<td><strong>54</strong></td>
</tr>
<tr>
<td><strong>Extra parking spaces</strong></td>
<td></td>
<td><strong>17</strong></td>
</tr>
</tbody>
</table>

Pursuant to the car parking provisions of Clause 52.06, the proposal generates a demand of 0.3 car spaces to each lodging room, which equates to 37 car spaces. The proposal includes 54 car spaces within a basement car park, which is in excess of the requirements of Clause 52.06 of the Bayside Planning Scheme.

The level of increased traffic generated by the proposed development will not adversely impact the local road network and Council’s Traffic Engineer has raised no objection in his regard. Furthermore Council’s Traffic Engineer noted that Union Street is shown in Melway as a Major Council Road but given it carries in the order of 3,500 VPD (vehicles per day) its function is more akin to a Collector Road. Council’s Traffic Engineer advised that nursing homes are relatively low generators of traffic, particularly in the on road peak hours.

It is noted that the subject site is currently operating as an aged care facility and accordingly is already generating a level of traffic. Notwithstanding, an assessment of traffic generated by the new development in isolation was undertaken. This assessment advised that the proposed development is expected to generate in the order of 372 vehicles per day. Given that the road carries in the order of 3,500 VPD, the proposed 372 VPD is expected to have a negligible impact on the surrounding road network when compared to the existing operation.
Bicycle facilities

It is noted that the Bayside Planning Scheme at Clause 52.36 requires bicycle parking areas.

<table>
<thead>
<tr>
<th>Clause 52.34 – Bicycle Parking Requirements Component</th>
<th>No/Area</th>
<th>Requirement</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nursing Home</td>
<td>124 beds</td>
<td>1 space per 7 beds for employees; 1 space per 60 beds for visitors</td>
<td>17 2</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>Employees</strong></td>
<td><strong>Visitors</strong></td>
<td><strong>17</strong></td>
</tr>
<tr>
<td></td>
<td><strong>17</strong></td>
<td></td>
<td><strong>2</strong></td>
</tr>
</tbody>
</table>

Furthermore, where 5 or more employee bicycle spaces are provided, employee facilities are required in accordance with Clause 52.34 of the Bayside Planning Scheme, as identified below.

<table>
<thead>
<tr>
<th>Clause 52.34 – Bicycle Facility Requirements Facility</th>
<th>Employee Bicycle Spaces</th>
<th>Requirement</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Showers</td>
<td>18 spaces</td>
<td>1 shower for the first 5 employee bicycle spaces; plus 1 to each 10 employee bicycle spaces thereafter</td>
<td>2</td>
</tr>
</tbody>
</table>

It is proposed to provide a total of 19 bicycle parking spaces with 17 spaces located within the basement car park available for both employees and 2 spaces on the ground level for visitor use in accordance with the above requirements.

With regard to showers, 2 have been provided on-site within the staff amenities room in the basement (1) and within the WC on ground level. Based on the above, the proposed provision of bicycle parking is considered appropriate.

Considering the all the requirement it is concluded that:

- The proposed car parking, bicycle parking and access design is considered appropriate;
- The proposed provision of employee and visitor bicycle parking exceeds the requirements of the Planning Scheme, and is therefore considered appropriate;
- The proposed supply of bicycle parking is appropriate for the proposed development;
- The proposed supply of car parking is appropriate for the proposed development;
- The proposed development is expected to have a negligible impact on the surrounding road network when compared to the existing operation; and
- Council Engineers raised no concerns with the proposed development.

The provision of car parking is therefore considered to be appropriate to satisfy the parking demands generated by the development.
6.5 Vegetation & Landscaping

Council’s Arborist has attended the site and has advised that the existing vegetation on the site have low amenity values. It is noted that no trees are protected by any statutory planning overlay.

The table below identifies those trees protected by the Local Law and those which are not protected by any statutory mechanism. Native trees are marked with a *.

<table>
<thead>
<tr>
<th>Local Law protected trees</th>
<th>Trees not protected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tree #3</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Council’s Arborist in their referral response advised that there is no objection to the proposed removal of all trees on their low amenity value and subject to replacement value. The site contains a mixture of native and exotic trees and shrubs. The submitted Arboricultural Report recommends the removal of a Callistemon citrinus (Crimson Bottlebrush - Tree #3).

Council’s Arborist has reviewed the submitted Arboricultural Report and advised that it does not provide sufficient detailing about the impact of the proposal on the trees on neighbouring properties. Conditions are included within the recommendation to require this. Furthermore, a landscape plan will be required as part of any permit issued.

The Landscaping Objective of Clause 55 (Rescode) requires consideration to be given to the retention of existing trees and protection of any predominant landscape features of the neighbourhood. However, the land is zoned for residential purposes and there are no specific vegetation protection overlays applicable to the site. The trees proposed to be removed from the site are not considered to make any significant contribution to the character of the neighbourhood. The Arborist Report submitted with the application recommends that the cedar trees within the front setback are retained. Conditions are included in the recommendation to require tree protection details be provided and appropriate landscaping.

With regards to the future planting on the site, the proposed development incorporates landscaping opportunities to achieve an outcome consistent with the existing and preferred character of the area. The Bayside City Council Landscape Guidelines (2015) specify that for high density applications, 1 large canopy tree (8-15 m height and greater than 4m canopy spread) should be planted for each building setback of 3m or rear property boundary. The proposed development is considered to comply with The Bayside City Council Landscape Guidelines (2015). The landscape plan also includes a variety of shrubs and ground covers within the front and rear setbacks, and along the side boundaries. The landscape plan will achieve an outcome consistent with the preferred landscaped character of the area.

6.6 Waste Management

The application included a Waste Management Plan (WMP) prepared by One Mile Grid. The proposed collections frequency may be adjusted to cope with volumes above the calculated estimates. All aspects of waste, including garden waste and hard waste collections will be organised by site management via private contractors.

This has been reviewed by Council’s Waste Management Coordinator who advises that the WMP for this development adequately addresses the needs of this facility.
6.7 Environmentally Sustainable Design

The application included an Environmentally Sustainable Development Report prepared by Waterman AHW. The report includes a response to Clause 22.08 Water Sensitive Urban Design. The proposed development has integrated sustainable design features into the building they are as follows:

1. Indoor Environment Quality
   - Generally floor depths are within 5m, allowing for high quality natural ventilation;
   - Low emission products including low VOC paints, sealants, adhesives, floor coverings, and fitout products are recommended for inclusion in the project;
   - All services will be designed in accordance with relevant acoustic standards to minimise the noise pollution to indoor environment;
   - The building facade elements of the development including walls, roofs, floors, windows and doors have been designed to comply with BCA acoustic requirements;

2. Energy Efficiency
   - The building will target a lighting power density of 20% below the maximum allowance in the BCA;
   - Motion sensors are will be used in spaces with limited occupancy such as corridors, plant rooms and carpark areas in order to reduce hours of operation and energy consumption of the lighting system;
   - Daylight sensors and timeclocks are will be installed for all external lighting;
   - The lighting design is will incorporate zoning so that different sections of the lighting system can be switched off individually;
   - The project will incorporate a CO monitoring and control system;
   - The project will incorporate VSDs to all large fans and pumps;
   - A regenerative drive lift and auto power off facility is will be utilised for the development;

3. Water Efficiency / Stormwater Management
   - All plants will be selected which require minimal irrigation; the irrigation system is proposed to be achieved via the usage of rainwater harvested on site;
   - The roof will be used to collect water for storage within a 60,000L rainwater tank for reuse within the site for irrigation and toilet flushing;
   - The following ratings are proposed for the various water fixtures for the development.
     - Water Closets: 4 Star (<3.5 L/flush)
     - Showers: 3 Star (<7.5 L/min)
     - Basin Taps: 5 Star (<6.0 L/min)

4. Materials
   - Reused/recycled materials will be identified and the potential for future reuse to be considered, through mechanical fixing methods and specifying materials that can be recycled;
- Timber sourced from plantation sources or recycled timber will be used in the building to reduce the reliance on timber sourced from old growth forests;
- Alternatives to polyvinyl chloride (PVC) products such as vinyl flooring, and PVC plumbing, and electrical cabling will be utilised;
- Where practical, materials such as cladding, framing, flooring and footings will be specified to be non-toxic, durable and to have a low embodied energy;
- The building will be designed to be easily disassembled and/or modified for future alternative usages;

5. Waste management
- In order to encourage the builder to practice appropriate recycling procedures during construction, it is recommended that a requirement for the builder to recycle or reuse 80% (by mass) of construction waste as part of the construction process be specified for the project;
- A specialist waste consultant will be engaged to provide specific advice on the expected waste streams from the building and appropriate strategies to improve recycling rates;

6. Urban Ecology
- The landscape design incorporates a selection of local indigenous plants;
- A number of communal courts and other outdoor areas have been provided throughout the development, which help create a connection to nature for residents and can serve as a place of respite;

The outcome proposed are considered to be appropriate for a development of this type and improve the performance of the building. Conditions are included in the recommendation to ensure the initiatives outlined in the report are carried out.

6.7 Advertising Signs
The application proposes an internally illuminated business identification sign on the front boundary with Union Street. This will measure 3.6m by 1.8m and will be erected on 0.9m high posts, resulting in an overall height of 2.7m. A further sign will be located above the basement car park entry. This will be non-illuminated and measure 1.2m by 0.6m.

The decision guidelines of Clause 52.05 (Advertising Signs) require the following to be considered:
- The character of the area
- Impacts on views and vistas
- The relationship to the streetscape, setting or landscape
- The relationship to the site and building
- The impact of structures associated with the sign
- The impact of any illumination
- The need for identification and the opportunities for adequate identification on the site or locality
- The impact on road safety

The proposed signs are not of a size or scale that would have any adverse impact on the character of the area. They are limited in number and considered appropriate for the development, being read against the proposed built form. The business identification sign will be internally illuminated with concealed LED lighting along the top, which will
limit the impact of the lighting. This sign will be erected on 0.9m high posts, however its location at the front of the site means it sits within an appropriate context. This sign will be set back 0.6m from the boundary and will not have any impact on traffic safety. The smaller sign will be located above the basement car park entry and be set well away from the street. The proposed signage is therefore considered to be acceptable for the proposed development.

6.8 Objections received

Issues raised by objectors that have not been addressed in the assessment above, are discussed below.

Impact on Berkeley Grove Heritage Precinct (HO650)

The Berkeley Grove Heritage Precinct is located adjacent to the western boundary of the subject site. The heritage citation states that it is demonstrative of two principal phases of development in the area from the earliest European occupation to the inter-war residential development which now defines its aesthetic characteristics.

The sloping topography of the site means that there will be an extensive amount of cut into the land. As a result, the building, when viewed from the western elevation will appear as a two storey building. The building height and level of articulation along the western elevation, help to reduce the impact on the adjacent properties. As such the impact of the proposal on the significance of the heritage precinct is considered to be limited.

Lack of engineering report in relation to basement parking

Sufficient information to enable an informed view of the application has been made available for viewing at Council offices as part of the notification process, which has been carried out in accordance with Section 57 of the Planning and Environment Act 1987.

Location of gas meter

The submitted plans show that a gas meter will be located within the site in the south-western corner. The location of the meter is a matter for the developer and the gas company and not a consideration under the Bayside Planning Scheme. However a conditions will be placed on any permit issued requiring a sufficient landscape buffer between the abutting allotments boundary fence and the gas meter.

Impacts of construction on neighbouring property – clarification required

Noise and truck movements during the construction phase of development are a temporary and unavoidable consequence of development and not justification to withhold development of the site. Construction techniques and effects – noise, dust, stability of existing foundations and damage to nearby dwellings are not a consideration under the Planning & Environment Act or Bayside Planning Scheme.

Support Attachments

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Assessment (Precinct D1) ↓
4. Clause 55 Assessment ↓
Bayside City Council
Planning & Amenity Committee Meeting - 2 November 2017
Attachment 1

Item 4.4 – Matters of Decision
Item 4.4 – Matters of Decision
Attachment 1
One objection was received from outside the area shown above (19 Elizabeth located north of the subject site).
Figure 2 View towards the site northwest

Figure 3 View towards the site from the east
Figure 4 of the View towards the site from the north

Figure 5 of the View towards the site from the north
Figure 5 View towards the northwest
ATTACHMENT 3
Neighbourhood Character Policy (Precinct D1)

Preferred Future Character Statement

The dwellings sit within established gardens that contain substantial vegetation including trees. The area retains some dwellings from the Inter-war era, along with new complementary development. The spaciousness of the area is maintained by setting buildings back from both side boundaries and keeping front fences low and appropriate to the era of the dwelling. The strong horizontality of the existing dwellings is respected by recessing upper levels of new dwellings, incorporating low pitched roof forms and articulating the front facades.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To maintain and enhance the garden settings of the dwellings.</td>
<td>• Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs.</td>
<td>Lack of landscaping and substantial vegetation</td>
<td>Responds, subject to conditions</td>
</tr>
<tr>
<td></td>
<td>• Retain existing large trees wherever possible.</td>
<td>Loss of front garden space.</td>
<td>Council’s Arborist has assessed the submitted landscaping plan and advised that the built form needs to be reduced in order to incorporate appropriate setbacks</td>
</tr>
<tr>
<td></td>
<td>• Buildings should be sited to allow space for the planting of trees and shrubs.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To maintain a spacious visual separation between buildings.</td>
<td>• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td></td>
<td>Responds, subject to conditions</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Whilst a degree of spacing is provided between the proposed building and the boundaries, it does not allow for substantial vegetation to be accommodated. Conditions are therefore included in the recommended to increase the side setbacks to allow for more planting.</td>
</tr>
<tr>
<td>To minimise the loss of front garden spaces and the dominance of car parking structures.</td>
<td>• Locate garages and carports behind the line of the dwelling.</td>
<td>Car parking structures that dominate the facade or view of the dwelling.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Minimise paving in front garden areas including driveways and crossovers.</td>
<td>Front setbacks dominated by impervious surfaces.</td>
<td>Basement parking is proposed for the development with a single access off Union Street. This access also allows for vehicle entry to the front of the building, with a separate exit via a porte cochere. Sufficient space is also provided in the front setback for generous landscaping.</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>----------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>To ensure that buildings respect the low scale, horizontal forms of the area.</td>
<td>• Recess two storey elements from the front façade.</td>
<td></td>
<td>Responds, subject to conditions</td>
</tr>
<tr>
<td></td>
<td>• Incorporate low pitched roof forms with eaves.</td>
<td></td>
<td>The proposed building is three storeys with flat roof and contemporary design. The first floor is not recessed from the front façade, nor is the second floor, although it has a smaller footprint. The proposed design is considered to be appropriate however the visual bulk and mass needs to be reduced through conditions, which will provide a better built form response for the surrounding area.</td>
</tr>
<tr>
<td>To ensure that new dwellings present an interesting façade to the streetscape.</td>
<td>• Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, combinations of materials, textures or colours or other elements providing appropriate articulation.</td>
<td>Large, bulky buildings with poorly articulated front and side wall surfaces.</td>
<td>Responds, subject to conditions</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The front façade of the building will be adequately articulated, but this is not the case in respect of the side walls, which lack variation in setback from the side boundaries. A condition will be imposed requiring a greater degree of articulation along the eastern and western sides of the building.</td>
</tr>
<tr>
<td>To respect the identified heritage qualities of adjoining buildings.</td>
<td>• Where adjoining an identified heritage building, respect the height, building forms, siting and materials, in the new building design.</td>
<td>Buildings that dominate heritage buildings by height, siting or building massing. Period reproduction detailing.</td>
<td>Responds, subject to conditions</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The Berkeley Grove Heritage Precinct lies adjacent to the western boundary of the site. The development will be cut into the land so that it will appear as two storey when viewed from the west. Conditions are recommended to increase the setback of the building from this boundary, which will further reduce the impact on the heritage precinct.</td>
</tr>
<tr>
<td>To reflect the building materials in locations where</td>
<td>• Where consistent brick colours are used in the streetscape, use similar</td>
<td>Brightly coloured external building materials in</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The proposal incorporates a variety of materials including glazing and</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------</td>
<td>------------------------------</td>
</tr>
<tr>
<td>there is particular consistency.</td>
<td>toning in the colours of new buildings.</td>
<td>areas of consistent brick materials.</td>
<td>render in a contemporary design. The colour palette is of muted tones, reflecting the surrounding streetscape.</td>
</tr>
<tr>
<td>• Use simple building details without replication of older styles.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>To maintain the openness of the streetscape.</td>
<td>• Front fence style should be open and appropriate to the building era.</td>
<td>High front fencing.</td>
<td>N/A</td>
</tr>
<tr>
<td>• Front fence style should be open and appropriate to the building era.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
ResCode Clause 55 (Two or More Dwellings on a Lot and Residential Buildings)

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes, subject to conditions</td>
<td>Refer report.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to the services and facilities required to support the proposed aged care facility.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>Variation required.</td>
<td>Refer report.</td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>Any upgrades required will be the responsibility of the developer.</td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>The development addresses the street and entries are clearly identifiable from the road.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>Yes</td>
<td>The required setback is 9m, the proposed setback is 10.01m.</td>
</tr>
<tr>
<td>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B7 Building Height</strong></td>
<td>Yes</td>
<td>Required: 9m</td>
</tr>
<tr>
<td>Building height should respect the existing or preferred</td>
<td></td>
<td>Proposed: 9m</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Variation required</td>
</tr>
<tr>
<td>------</td>
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<td>--------------------</td>
</tr>
<tr>
<td>B8 Site Coverage</td>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td>Variation required</td>
</tr>
<tr>
<td>B9 Permeability</td>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>Yes</td>
</tr>
<tr>
<td>B10 Energy Efficiency</td>
<td>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td>Yes</td>
</tr>
<tr>
<td>B11 Open Space</td>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td>Yes</td>
</tr>
<tr>
<td>B12 Safety</td>
<td>Layout to provide safety and security for residents and property.</td>
<td>Yes</td>
</tr>
<tr>
<td>B13 Landscaping</td>
<td>To provide appropriate landscaping. To encourage: Development that respects the landscape character of the neighbourhood. Development that maintains and enhances habitat for plants and animals in locations of habitat importance. The retention of mature vegetation on the site.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B14 Access</strong></td>
<td>Yes</td>
<td>Appropriate vehicular access is provided. <strong>Maximum</strong>: 33% of street frontage  <strong>Proposed</strong>: 14% of street frontage</td>
</tr>
<tr>
<td>---------------</td>
<td>-----</td>
<td>----------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B15 Parking Location</strong></th>
<th>Yes</th>
<th>Refer report.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B17 Side and Rear Setbacks</strong></th>
<th>Variation required</th>
<th>Refer report.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impact on existing dwellings.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B18 Walls on Boundaries</strong></th>
<th>N/A</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B19 Daylight to Existing Windows</strong></th>
<th>Yes</th>
<th>The proposal is set back from property boundaries sufficiently to ensure daylight to existing windows is maintained.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allow adequate daylight into existing habitable room windows.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B20 North Facing Windows</strong></th>
<th>Yes</th>
<th>There are no north facing windows within 3 metres of the boundary.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B21 Overshadowing Open Space</strong></th>
<th>Yes</th>
<th>Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 December.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B22 Overlooking</strong></th>
<th>Variation required</th>
<th>Refer report.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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<table>
<thead>
<tr>
<th>B23 Internal Views</th>
<th>Yes, subject to condition</th>
<th>Refer report</th>
</tr>
</thead>
<tbody>
<tr>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B24 Noise Impacts</th>
<th>Yes</th>
<th>Plant rooms have been incorporated into the design of the building and are located centrally within the building away from the sensitive boundary interfaces.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B25 Accessibility</th>
<th>Yes</th>
<th>The development has been designed to accommodate people with limited mobility.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consider people with limited mobility in the design of developments.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B26 Dwelling Entry</th>
<th>Yes</th>
<th>The building has been designed with a sense of address to the street and allowing for shelter and a transitional space around the entry.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide a sense of identity to each dwelling.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B27 Daylight to New Windows</th>
<th>Yes</th>
<th>All habitable room windows have direct access to daylight.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allow adequate daylight into new habitable room windows.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B28 Private Open Space</th>
<th>Variation required.</th>
<th>Refer report.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide reasonable recreation and service needs of residents by adequate pos.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B29 Solar Access to Open Space</th>
<th>Yes</th>
<th>Where practicable, private open space for each bedroom is located on the northern elevation (or east or west).</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B30 Storage</th>
<th>Variation required</th>
<th>Refer report.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide adequate storage facilities for each dwelling.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B31 Design Detail</th>
<th>Yes, subject to conditions</th>
<th>Refer discussion in Attachment 3.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B32 Front Fences</th>
<th>N/A</th>
<th>None proposed.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B33 Common Property</th>
<th>Yes</th>
<th>Complies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure car parking, access areas and other communal</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Item 4.4 – Matters of Decision</td>
<td>Bayside City Council</td>
<td>Planning &amp; Amenity Committee Meeting - 2 November 2017</td>
</tr>
<tr>
<td>--------------------------------</td>
<td>----------------------</td>
<td>-------------------------------------------------------</td>
</tr>
<tr>
<td>open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B34 Site Services</strong>&lt;br&gt;Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td>Yes</td>
<td>There is adequate space in and around the development for required services and facilities.</td>
</tr>
</tbody>
</table>
4.5 4 CARPENTER STREET, BRIGHTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2017/187/1 WARD: NORTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/211832

1. Purpose and background
To report a planning permit application for the construction of a three storey residential building containing ten dwellings over basement car parking and the construction of a front fence exceeding a height of 1.5 metres on land which has a combined area of 769.71 square metres (refer Attachment 1) at 4 Carpenter Street, Brighton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Keen Planning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>29 March 2017</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>27 April 2017</td>
</tr>
</tbody>
</table>

2. Policy implications
Planning permit requirements
Clause 32.08-4 (General Residential Zone Schedule 2) – Construction of two or more dwellings on a lot and construction of a fence exceeding a height of 1.5m.
Clause 43.02-2 (Design and Development Overlay – Schedule 11) – Buildings and works associated with a residential building exceed a height of 10 metres.

3. Stakeholder Consultation
External referrals
There were no external referrals required to be made in accordance with Clause 66 of the Bayside Planning Scheme.

Internal referrals
The application was referred to the following Council departments for comment:

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Drainage Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Waste Coordinator</td>
<td>No objection.</td>
</tr>
</tbody>
</table>

Public notification
The application was advertised pursuant to Sections 52(1) (a) and (d) of the Planning and Environment Act 1987 and 16 objections were received. The following concerns were raised:
- Overdevelopment;
- Design is out of character with area;
- Excessive height and built form;
- Increase in traffic / traffic safety issue;
- Parking;
- Loss of privacy;
- Loss of light;
- Overshadowing;
- Existing building may have asbestos;
- Burden on existing stormwater infrastructure;
- Removal of native vegetation; and
- Noise disturbance.

**Consultation meeting**

A consultation meeting was held on 2 August 2017 attended by the permit applicant and 11 objectors. As a result of this meeting 3 objections were withdrawn.

### 4. Recommendation

That Council:

Issues a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning Application 2016/768/1** for the land known and described as **4 Carpenter Street, Brighton**, for the **construction of a three storey residential building containing ten dwellings over basement car parking and the construction of a front fence exceeding a height of 1.5 metres** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be in accordance with the advertised plans submitted with the application, Council date stamped 24 May 2017 but modified to show:
   a) Compliance with Standard B18 (Walls on boundaries) along the south-west wall on boundary in accordance with the Bayside Planning Scheme;
   b) Provision of either:
      i) Installation of a sign requestion ‘left in’ and ‘left out’ only arrangement;
      ii) Installation of a signal system at the top of the ramp with a ‘stop-go’ sign;
   c) A schedule of construction materials, external finishes and colours (incorporating for example paint samples), including for screens provided on the balconies and roof of the building;
   d) Clear delineation (line marked) of the visitor parking spaces and relevant unit number;
   e) Ramp must be constructed to 1 in 10 grade for the first 5 metres in accordance with Clause 52.06 of the Bayside Planning Scheme;
   f) Location of all plant and equipment, including hot water services and air conditioners etc. Plant equipment is to be located away from habitable room windows of dwellings and the adjoining properties habitable rooms;
g) Landscaping Plan in accordance with Conditions 7 of this permit;

h) Water Sensitive Urban Design Measures in accordance with Condition 8 of this permit;

All to the satisfaction of the Responsible Authority.

2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason (unless the Bayside Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.

3. Before occupation, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard B22 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

4. Before the occupation of the site commences or by such later date as is approved in writing by the Responsible Authority, all buildings and works must be carried out and completed to the satisfaction of the Responsible Authority.

5. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.

6. All pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

**Landscaping**

7. Prior to the endorsement of plans pursuant to Condition 1, a Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape plan drawn by Wallbrink Landscape Architecture, Drawing No. 1929TP1, Issue B, dated 15 May 2017 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

   a) A survey, including botanical names, of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009.

   b) A survey, including botanical names, of all existing protected vegetation to be removed from the site.

   c) Provision of a 8 small canopy trees throughout the site;

   d) A survey, including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.

   e) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.

   f) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.

   g) Details of surface finishes of pathways and driveways.

**Water Sensitive Urban Design**

8. As part of the endorsement of plans pursuant to Condition 1, detailed plans to the satisfaction of the Responsible Authority must be submitted that show:
a) The type of water sensitive urban design stormwater treatment measures to be used.

b) The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces.

c) Design details of the water sensitive urban design stormwater treatment measures, including cross sections.

These plans must be accompanied by a report from an industry accepted performance measurement tool which details the treatment performance achieved and demonstrates the level of compliance with the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999.

9. The water sensitive urban design stormwater treatment system as shown on the endorsed plans must be retained and maintained at all times in accordance with the Urban Stormwater - Best Practice Environmental Management Guidelines, CSIRO 1999, to the satisfaction of the Responsible Authority.

Traffic / Drainage

10. Before the occupation of the development starts, the area(s) set aside for vehicle parking and access ways must be constructed, drained and line marked to the satisfaction of the Responsible Authority. Such areas must be kept available for these purposes at all times.

11. Before the occupation of the development starts, new or altered vehicle crossing(s) servicing the development must be constructed to the satisfaction of the Responsible Authority and any existing disused or redundant crossing or crossing opening must be removed and replaced with footpath/nature strip/ kerb and channel, to the satisfaction of the Responsible Authority.

12. Before the development starts, the permit holder must apply to Council for the Legal Point of Discharge for the development from where stormwater is drained under gravity to the Council network.

13. Before the commencement of works, a Construction Management Plan (CMP), to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit and shall thereafter be complied with. The CMP must specify and deal with, but not be limited to the following as applicable:

a) A detailed schedule of works including a full project timing.

b) A traffic management plan for the site, including when or whether any access points would be required to be blocked, an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services, preferred routes for trucks delivering to the site, queuing/sequencing, excavation and swept-path diagrams.

c) The location for the parking of all construction vehicles and construction worker vehicles during construction.

d) Delivery of materials including times for loading/unloading, unloading points, expected frequency and details of where materials will be stored and how concrete pours would be managed.

e) Proposed traffic management signage indicating any inconvenience generated by construction.

f) Fully detailed plan indicating where construction hoardings would be located.
g) A waste management plan including the containment of waste on site: disposal of waste, stormwater treatment and on-site facilities for vehicle washing.

h) Containment of dust, dirt and mud within the site and method and frequency of clean up procedures in the event of build-up of matter outside the site.

i) Site security.

j) Public safety measures.

k) Construction times, noise and vibration controls.

l) Restoration of any Council assets removed and/or damaged during construction.

m) Protection works necessary to road and other infrastructure (limited to an area reasonable proximate to the site).

n) Remediation of any damage to road and other infrastructure (limited to an area reasonably proximate to the site).

o) An emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experience.


q) All contractors associated with the construction of the development must be made aware of the requirements of the Construction Management Plan.

r) Details of crane activities, if any.

Development Contributions

14. Prior to endorsement of the plan/s required under Condition 1 of this permit, the permit holder must pay a drainage levy in accordance with the amount specified under the Bayside Drainage Development Contributions Plan. The levy amount payable will be adjusted to include the Building Price Index applicable at the time of payment.

The levy payment shall be submitted to Council with the Bayside Drainage Contributions Levy Charge Sheet and it must include the Building Price Index applicable at the time of payment.

Permit Expiry

15. This permit will expire if one of the following circumstances applies:

a) The development is not started within two years of the date of this permit.

b) The development is not completed within four years of the date of this permit.

In accordance with Section 69 of the Planning and Environment Act 1987, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.

Permit Notes:

- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council's supervision for which 24 hours' notice is required.

- Council must be notified of the vehicular crossing and reinstatement works.
This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.

Prior to commencement of any building works, an Asset protection Application must be taken out. This can be arranged by calling Asset Protection Administrator on 9599 4638.

Council records indicate that there is a 3.5m wide drainage and sewerage easement along the rear (south) property boundary as indicated on the drawings provided. The plans indicate no proposals to encroach into the easement with any buildings or structures of note. Proposals to be built over the easement will require Build Over Easement consent from the responsible Authority/Authorities.

5. **Council Policy**  
**Council Plan 2017-2021**

Relevant strategic objectives of the Council plan include:

- Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a connection to place.
- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.
- Where a range of housing types is provided to accommodate the changing needs of the community, enabling people to age in place and providing opportunities for young adults and families to live and remain in the municipality.

Relevant strategies of the Council plan include:

- Make discretionary planning controls stronger, by advocating for Council’s planning and urban design objectives to state government.

**Bayside Planning Scheme**

- Clause 9  Plan Melbourne
- Clause 11  Settlement
- Clause 15  Built Environment and Heritage
- Clause 16  Housing
- Clause 21.02  Bayside Key Issues and Strategic Vision
- Clause 21.03  Settlement and Housing
- Clause 21.06  Built Environment and Heritage
- Clause 21.11  Local Areas
- Clause 22.06  Neighbourhood Character Policy (Precinct B2)
- Clause 22.08  Water Sensitive Urban Design
- Clause 32.08  General Residential Zone (Schedule 2)
- Clause 43.02  Design and Development Overlay (Schedule 11)
- Clause 45.06  Development Contributions Plan Overlay
- Clause 52.06  Car Parking
- Clause 55  Two or More Dwellings on a Lot
6. Considerations

In considering this application, regard has been given to the State and Local Planning Policy Frameworks, the provisions of the Bayside Planning Scheme, objections received and the individual merits of the application.

6.1. Strategic Justification

The Planning Policy Framework supports the intensification of development in and around public transport nodes and in activity centres. The local areas policy contains a subsection relating specifically to the Church Street Major Activity Centre (Clause 21.11-3) that seeks to encourage residential development close to shops and services to provide a transition from the business precinct to low scale residential areas.

Furthermore Clause 21.11 encourages redevelopment of larger sites and grade level car parks for residential with basement car parking and encourages the provision of adequate off-street parking for all new dwellings.

Additionally, the policy in Clause 21 seeks to provide an opportunity for as many people as is appropriate given the character of the area and the opportunities for change to live and work in Brighton, with access to public transport and within walking and cycling distance of activity centres, and hence to provide a real transport option for people other than the private car. It is considered that the proposal meets the above policy aspirations.

6.2. Design and Development Overlay Schedule 11 (DDO11)

1. The design objectives of this schedule are as follows:

- To ensure that the height of new development is compatible with the preferred future role and character of the Church Street Major Activity Centre;
- To develop the centre in a way that conserves and enhances its valued urban character and heritage places;
- To ensure that new development contributes to safe and active streets; and,
- To maintain a strong landscape character with residential buildings set within vegetated front gardens and streetscapes in the residential precincts.

The subject site is identified as being located within the Church Street Major Activity Centre and identified as been within Precinct E of the Schedule.

Precinct E has the following build form provisions:
Pursuant to the Design and Development Overlay – Schedule 11 - Residential Precincts, it is imperative to acknowledge that the DDO11 states the following:

*Buildings in a Residential Zone should be set back in accordance with the relevant Clauses 54 and 55 standards except that the second floor should be set back a minimum of 4 metres behind the front wall of the floor immediately below, unless the second floor is an attic.*

It is important to note that Clause 55 states that if the land is included in an overlay (other than a Neighbourhood Character Overlay) and a schedule to the overlay specifies a requirement different from a requirement of a standard set out in this clause or a requirement of a standard set out in the zone or a schedule to the zone, the requirement in the overlay applies.

It is for this reason that the setbacks stipulated within the DDO11 override the requirements of the Clause 55 in terms of the front setback of the second floor. Furthermore, it is noted the subject site has been identified as been within the DDO11 due to its proximity to public transport corridors and retail/commercial precincts thus encouraging a level of change in dwelling diversity.

2. The proposal retains the low rise, neighbourhood character of the Church Street Major Activity Centre by respecting the scale of the predominately two to three storey built form. The amended plans comply with the Design and Development Overlay – Schedule 11 for the following reasons:

- The proposed development consists of a maximum height of 11 metres (above NGL) / three storeys development. There are no portions that exceed the 11 metres;
- The second floor is setback 4 metres front wall of the first floor;
- The bulk, location and appearance of the development is considered to be in keeping with the emerging character and appearance of adjacent buildings located within close proximity and is considered to enhance the streetscape;
- The proposed development does not overshadow any public space nor any adjoining streets;
- The proposed use of a mixture of building materials provides a level of articulation

<table>
<thead>
<tr>
<th>Precinct</th>
<th>Preferred building height</th>
<th>Maximum building height</th>
</tr>
</thead>
<tbody>
<tr>
<td>B</td>
<td>13.5m (4 storeys)</td>
<td></td>
</tr>
<tr>
<td>C</td>
<td>11.0m (3 storeys)</td>
<td></td>
</tr>
<tr>
<td>D</td>
<td>9.0m (2 storeys) fronting Well Street, 11.0m (3 storeys) fronting any other street</td>
<td></td>
</tr>
<tr>
<td>E</td>
<td>11.0m (3 storeys); or 12.0m (3 storeys) where the slope of the natural ground level at any cross section of the site of the building wider than 8m is 2.5 degrees or more</td>
<td></td>
</tr>
</tbody>
</table>
and breaks up the perceived bulk from all abutting allotments;

- The subject is located within walking distance to Middle Brighton Station which encourages the use public transport and furthers The Church Street Centre Framework Plan;
- The proposed development will contribute to creating a vibrant residential activity centre;
- The proposed development is considered to be consistent with the Church Street Centre Framework Plan;
- The subject site does not abut any heritage dwellings, therefore the design, form, layout, proportion and scale of the proposed buildings is considered to be compatible with the style, form, proportion, and scale of the neighbouring properties; and,
- The layout and appearance of areas set aside for car parking is considered sufficient;

In principle, the proposed development and the diversity of the housing stock is supported. The precinct as a whole offers a variety of dwelling sizes and types therefore the increase in assortment of dwellings for the subject site is an appropriate outcome for the precinct. In general, this form of medium density development is encouraged under the Church Street Centre Framework Plan therefore, the proposed development is considered to be consistent with the objectives of the DDO11.

6.3. **Neighbourhood character**

The site is located within the Neighbourhood Character Precinct B2. The proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The development incorporates appropriate boundary setbacks to reflect the built form pattern of the area while promoting adequate visual separation between the adjoining dwellings. It is noted that the character of Carpenter consists of various built form elements, therefore the proposed contemporary design will not seem at odds with the immediate area. The development will sit comfortably within the context largely due to the articulated facades, roof form responsive to dwelling forms in the neighbourhood, appropriate front setbacks in accordance with the DDO, materials and finishes that are complementary to the existing and the preferred character of the area. The contemporary design of the development provides a level of visual interest along with various forms of articulation along all boundaries. The various forms of external building materials including rendered brickwork assists in integrating the development in to the prevailing and emerging neighbourhood character.

The buildings setback from the side boundaries allow for suitable landscaping opportunities to enhance the landscaped character of the area. The proposed setback along with the amount of open space along the frontage and rear the subject site provides an opportunity for the provision of landscaping, subject to conditions, thus maintaining the vegetated streetscape.

On balance, it is considered that the proposal is respectful of both the prevailing and preferred neighbourhood character and appropriately responds to the characteristics of, vegetated streetscape, visual separation between buildings, and street presentation.

6.4. **Compliance with Clause 55 (ResCode)**

An assessment against the requirements of Clause 55 is provided at Attachment 4. Those non-compliant standards are discussed below (noting the corresponding objectives have been achieved):

- **Side and Rear Setbacks (Standard B17)**
Therefore the following ‘non-compliances’ should only be viewed as guide as the DDO setbacks apply and not standard ResCode requirements.

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>North-east (side)</td>
<td>0-0.2m or 1m</td>
</tr>
<tr>
<td>South-west (side)</td>
<td>0-0.2m or 1m</td>
</tr>
<tr>
<td>South-east (rear)</td>
<td>0-0.2m or 1m</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Second floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required</td>
</tr>
<tr>
<td>North-east (side)</td>
</tr>
<tr>
<td>South-west (side)</td>
</tr>
<tr>
<td>South-east (rear)</td>
</tr>
</tbody>
</table>

The proposal complies with the required setbacks at ground floor on all boundaries. However at first floor the setback on the north-east boundary does not comply with the requirement of 3.09m, the setbacks being 1.5m, 2.7m, 3m. The neighbouring property is within 2 metres of the shared boundary.

The encroachment of the first floor along North-east (side) and South-west (side) range between 0.09m - 1.59m therefore a variation of (maximum) 1.5m is sought. This variation is considered to be appropriate as:

- The subject wall abuts a non-interactive interface (driveway) therefore negative impact on the abutting allotment is not anticipated;
- Sufficient solar access is provided to the abutting allotment,
- Due to the proposed mixture of building materials along the north-east the visual bulk is reduced;
- The encroachment is not considered to have a detrimental impact on neighbourhood character of the area as it does not create an unreasonable amount of visual bulk when viewed from the abutting allotment as well as the public realm;
- The variation of between 0.09 - 1.5m is considered to be minimal as it achieves the objective of the standard;
- Full compliance with Standard B17 (side and rear setbacks) would unreasonably compromise the internal layout of the proposed development;
- There is sufficient built form separation (recession) between first and ground floor;
- The proposed setback does not negatively overshadow the abutting allotment as it meets all the requirements;
- The requirement for the development to full comply with Standard B17 (side and rear setbacks) would not meet the minimum dimensions for a room, therefore
unreasonably compromise the internal layout of the proposed development;

The proposed variations are considered to appropriate as the setbacks are not considered to negatively impact the neighbouring properties, the setbacks are consistent with the built from within the immediate area and the overall proposal has a high degree of compliance with ResCode.

Furthermore, it is noted that a certain level of compromise is required based on the sites location and been identified as been located within a Major Activity Centre (Church Street Major Activity Centre).

**B18 Walls on Boundaries**

The proposed south-west wall on boundary not comply with Standard B18, therefore a condition will be placed on any permit issued requiring compliance with the requirements of B18.

**Open Space (Standard B28)**

In addition there is a level of non-compliance on the south-west boundary with setbacks for the two terraces being 1.5m instead of 2.39m. The adjoining property at 166 New Street is set well away from the boundary and at an angle and as such this level of non-compliance with the terraces is considered acceptable.

**Front Fences (Standard B32)**

It is proposed to construct a front fence with rendered brick piers at a height of 2 metres. Part of the fence would be open style with metal pickets and part would be solid rendered brick. The style of fencing along this section of Carpenter Street varies, with both solid and open style fencing. The proposed 2 metre height is considered to be in keeping with the surrounding area and does is considered to respect the neighbourhood character.

### 6.5. Car parking

The purpose of Clause 52.06 (Car Parking) is to:

- To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.

- To support sustainable transport alternatives to the motor car.

- To promote the efficient use of car parking spaces through the consolidation of car parking facilities.

- To ensure that car parking does not adversely affect the amenity of the locality.

- To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.

The development proposes the following:

<table>
<thead>
<tr>
<th>USE</th>
<th>SIZE</th>
<th>PLANNING SCHEME PARKING RATE</th>
<th>CAR PARKING REQUIREMENT</th>
<th>CAR PARKING PROPOSED</th>
<th>ADDITIONAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling (resident)</td>
<td>2 x 1 Bedroom</td>
<td>1 space to each 1 or 2 - Bedroom dwelling</td>
<td>10</td>
<td>16</td>
<td>6</td>
</tr>
<tr>
<td></td>
<td>8 x 2 Bedroom</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dwelling (visitor)</td>
<td>2</td>
<td>1 space for visitors to every 5 dwellings</td>
<td>2 visitor space</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td></td>
<td>12 SPACES</td>
<td>18 SPACES</td>
<td>6 SPACES</td>
</tr>
</tbody>
</table>
Pursuant to Clause 52.06 a minimum of twelve (12) spaces are required to be provided for the proposed development. It is imperative to note that the proposed development provides an additional 6 spaces in order to reduce the need for on street parking.

The proposed basement carpark consists of the following:

- Twelve (12) parking spaces located in car stackers;
- Four (4) conventional parking spaces; and,
- Two (2) conventional visitor parking spaces.

The level of increased traffic generated by the proposed development will not adversely impact the local road network and Council’s Traffic Engineer has raised no objection in this regard.

**Ramp**

Council’s Traffic Engineer has reviewed the application and raised no objection subject to minor conditions which are included as part of the recommended permit conditions.

Council’s traffic engineer had concerns with the access to the subject site as it would compromise the new roundabout designed for Carpenter/Wellington/New intersection. This intersection is currently a declared blackspot due to number of crashes. With this in mind, Council’s Traffic Engineer did not have any objection to the access as long as the following conditions were placed on any permit issued:

*Options 1*

The subject access point can be supported as long as it operates as ‘left in’ and ‘left out’ only traffic arrangement.

*Option 2*

Installation of a signal system at the top of the ramp be installed with a ‘stop-go’ sign due to single lane width and its length.

A condition will be placed on any permit issued reflecting the above mentioned conditions. Furthermore, this would alleviate concerns raised by the objectors in relation to the location of the crossover. Furthermore, Council’s Traffic Engineer requested that the ramp gradient be constructed with a 1 in 10 grade over the first 5m, this is reflected as a conditions should any permit be issued.

6.6. **Street tree removal**

No Street Tree removal is proposed.

6.7. **Vegetation & Landscaping**

Council’s Arborist has attended the site and has advised that the existing vegetation on the site have low amenity values as 9 out the 10 trees located on site are exotic. The one native tree (tree # 3 a sweet pittosporum) is not considered to be retain. It is noted that no trees are protected by any statutory planning overlay.

The table below identifies those trees protected by the Local Law and those which are not protected by any statutory mechanism. Native trees are marked with a *.

<table>
<thead>
<tr>
<th>Local Law protected trees</th>
<th>Trees not protected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed removal for</td>
<td>Proposed retention for</td>
</tr>
<tr>
<td>Proposed removal for</td>
<td>Proposed retention for</td>
</tr>
<tr>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>
Council’s Arborist in their referral response advised that there is no objection to the proposed removal of all trees on their low amenity value and subject to replacement value. Conditions will be placed on any permit issued requiring replacement planting to occur throughout the development.

With regards to the future planting on the site, the proposed development incorporates landscaping opportunities to achieve an outcome consistent with the existing and preferred character of the area. The Bayside City Council Landscape Guidelines (2015) specify that for low density applications, one large canopy tree (8-15 m height and greater than 4m canopy spread) should be planted in the front of dwelling one and one – two medium tree and two small (6m to 8m height) tree are planted in the rear of the site. Council arborist advised that the site should either accommodate 4 large trees or 8 small trees. It was considered that the provision of 8 small trees reaching a height of 6m to 8m would assist in screening the development and further contribute to the neighbourhood character of the area. It is considered that sufficient soil volume has been provided for 8 small trees to grow to their full potential. The provision of landscaping will reduce the visual impact to the abutting allotments.

The proposed development is considered to comply with The Bayside City Council Landscape Guidelines (2015). The landscape plan also includes a variety of shrubs and ground covers within the front and rear setbacks, and along the side boundaries. The landscape plan will achieve an outcome consistent with the preferred landscaped character of the area.

6.8. Objections received

Issues raised by objectors that have not been addressed in the assessment above, are discussed below.

Overdevelopment

State and Local Planning Policy envisage an increase in housing density in well serviced areas such as this. Clause 21.06, State Planning Framework of the Bayside Planning Scheme encourages higher density housing development on sites that are well located in relation to activity centres, employment corridors and public transport. The increase in population and density at this site is considered an appropriate response to the underutilised state of the site and the proximity of the site to public transport, shops and other services. While any increase in population density will likely increase the level of activity around the site and area, it is not envisioned that such an increase would be detrimental or substantially more intensive than what is currently experienced.

State Government policy is to encourage higher density housing in well located activity centres with access to public transport, recreation, education and other convenience services. This site fulfils the locality requirements.

Existing building may have asbestos

The removal of asbestos is outside of the scope of the Planning and Environment Act 1987 or the Bayside Planning Scheme. There is other legislation which administers the removal and handling of asbestos. The Occupational Health and Safety (Asbestos) Regulations 2003 which apply in Victoria also have regulations regarding the handling and removal of asbestos. Other legislation including the Public Health and Wellbeing Act 2008 provides protection for neighbours during such works.

Removal of native vegetation

The subject site is not effected by any Vegetation Protection Overlay, therefore there is no statutory planning policy protecting any vegetation located on site.

Noise disturbance.

Building work can sometimes affect adjoining properties. This is an inevitable stage of the process. However is not a matter considered under the planning permit process.
Support Attachments

1. Development Plans ↓
2. Site and Surrounds and Imagery ↓
3. Neighbourhood Character Assessment (B2) ↓
4. Clause 55 (ResCode) Assessment ↓
Item 4.5 – Matters of Decision
Item 4.5 – Matters of Decision
One objection was received from outside the area shown above.
Figure 2 View towards the site from the northeast looking down the driveway

Figure 3 View towards the site from the northeast
Figure 4 of the current development located on site

Figure 5 View towards the southeast of the current development located on site
Attachment 3

Neighbourhood Character Precinct B2

Preferred Future Character Statement

The diverse dwelling styles, with a continued presence of pre WW2 dwellings, sit within established gardens with occasional tall canopy trees. Side setbacks on both sides, and the setting back of car ports/garages from the dwelling, allows for vegetation to flow around the dwellings. New buildings blend with the existing, through using a variety of materials or colours within front façades, and by respecting the older building styles and scales without replicating them. Open style front fencing improves the visual connection between the dwelling and the street. Street tree planting consistency is improved to provide a unifying element to the area.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Assessment</th>
</tr>
</thead>
</table>
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development.  
  • Alterations and extensions should retain the front of these dwellings. | Demolition of dwellings that contribute to the valued character of the Precinct. | Responds  
The existing building on the site comprises of units and is not of any great architectural merit. |
| To maintain and enhance the garden settings of the dwellings.              | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs. | Lack of landscaping and substantial vegetation. | Respond, subject to conditions  
Council’s Arborist raised concern at the proposed planting schedule advising that insufficient trees are proposed. This will form part of conditions on any permit issued. |
| To maintain the rhythm of spacious visual separation between buildings and provide space for front gardens. | • Buildings should be sited to allow space for the planting of trees and shrubs.  
  • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. | Loss of front garden space. | Responds, subject to conditions  
As mentioned above, Council’s Arborist raised concern at the proposed planting schedule advising that insufficient trees are proposed. This will form part of conditions on any permit issued. |
| To minimise the loss of front garden space and the dominance of car parking facilities. | • Locate garages and carports behind the line of the dwelling.  
  • Provide only one vehicular crossover per typical site frontage.  
  • Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space. | Car parking facilities that dominate the façade or view of the dwelling. | Responds  
Basement parking is proposed with a single vehicular access. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Officer Assessment</th>
</tr>
</thead>
</table>
| To ensure new development respects the dominant buildings forms and scale of buildings in the Precinct, through the use of innovative architectural responses. | • Articulate the form of buildings and elevations, particularly front facades.  
• Recess upper storey elements from the front façade. | Large buildings with poorly articulated facades. | Responds  
Carpenter Street contains various forms of development including contemporary design. The proposed development will enhance the existing and emerging character of the area by utilising similar forms of materials, finishes; and, landscaping.  
The dwellings feature articulated forms and second storey elements will be recessed from the side walls and surfaces. The recessed upper storey elements from the front façade respond to the neighbourhood character of the street.  
It is considered that due to the architectural design found throughout Carpenter street, the roof form for the proposed development dwellings is considered to be appropriate as it meets the existing and emerging neighbourhood character of the street. |
| To respect the identified heritage qualities of adjoining buildings.        | • Where adjoining an identified heritage building, respect the height, building forms, siting and materials of the heritage building/s, in the new building design. | Buildings that dominate heritage buildings by height, siting or massing.  
Imitation or reproduction of historic building styles and detailing. | N/A |
| To use a variety of building materials and finishes that provide visual interest in the streetscape. | • Incorporate a variety of building materials such as brick, render, timber and non-masonry into the building design.  
• Use simple building details. | Exclusive use of one material on external wall facades. | Responds  
The proposal utilises a variety of materials, including render and stone cladding. The palette of colours is considered appropriate however this does not detract from the bulky design. |
| To improve the visual connection between the dwellings and the streetscape and encourage views to front gardens. | • Provide open style front fences, other than along heavily trafficked roads.  
• Front fence style should be appropriate to the building era. | High, solid fences | Responds  
The front fencing would be of a height up to 2 metres and metal pickets and piers. It is considered the fence does not present as a dominant feature as it is in keeping with the surrounding area. The fencing material is considered... |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer</th>
</tr>
</thead>
</table>

Avoid to be appropriate and will not seem juxtaposed to the immediate area.
### Attachment 4

**ResCode Clause 55 (Two or More Dwellings on a Lot and Residential Buildings)**

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer Attachment 2.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to services and facilities to support ten dwellings.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>Yes</td>
<td>The proposal provides a variety of sizes and layouts of apartments.</td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>Any upgrades required will be the responsibility of the developer.</td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>The dwellings appropriately address the street and entries are clearly identifiable from either the streetscape or the common pedestrian access.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| **B6 Street Setback** | Yes | Minimum: 6.87m  
Proposed: 7.1m |
| The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site. | | |
| **B7 Building Height** | Yes | Required: 11m  
Proposed: 11m |
<p>| Building height should respect the existing or preferred neighbourhood character | | |
| <strong>B8 Site Coverage</strong> | Yes | Maximum: 60% |
| | | |</p>
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Proposed/Suggested</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.5</td>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td><strong>Proposed:</strong> 59.8%</td>
<td></td>
</tr>
<tr>
<td>B9</td>
<td><strong>Permeability</strong>&lt;br&gt;Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>Yes</td>
<td><strong>Minimum:</strong> 20%&lt;br&gt;<strong>Proposed:</strong> 20%</td>
</tr>
<tr>
<td>B10</td>
<td><strong>Energy Efficiency</strong>&lt;br&gt;Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td>Yes</td>
<td>The proposal provides appropriate solar access to the dwellings.</td>
</tr>
<tr>
<td>B11</td>
<td><strong>Open Space</strong>&lt;br&gt;Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>B12</td>
<td><strong>Safety</strong>&lt;br&gt;Layout to provide safety and security for residents and property.</td>
<td>Yes</td>
<td>No safety issues are considered to be likely to arise.</td>
</tr>
<tr>
<td>B13</td>
<td><strong>Landscaping</strong>&lt;br&gt;To provide appropriate landscaping. To encourage: Development that respects the landscape character of the neighbourhood. Development that maintains and enhances habitat for plants and animals in locations of habitat importance. The retention of mature vegetation on the site.</td>
<td>Yes, subject to Condition</td>
<td>Council’s Arborist has raised concern at the lack of trees proposed on the planting schedule. A minimum of 8 small or 4 large canopy trees need to be planted, which will require a reduction of the built form on the site. Furthermore, the proposed species will not meet a height of 8 metres at maturity; a realistic height maximum needs to be proposed. These issues could however be dealt with by condition had the application been recommended for approval.</td>
</tr>
<tr>
<td>B14</td>
<td><strong>Access</strong>&lt;br&gt;Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.</td>
<td>Yes</td>
<td><strong>Appropriate vehicular access is provided.</strong>&lt;br&gt;<strong>Maximum:</strong> 40% of street frontage&lt;br&gt;<strong>Proposed:</strong> 18% of street frontage</td>
</tr>
<tr>
<td>B15</td>
<td><strong>Parking Location</strong>&lt;br&gt;Provide resident and visitor</td>
<td>Yes</td>
<td>The proposed car parking areas are appropriately located.</td>
</tr>
</tbody>
</table>
vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.

<p>| | |</p>
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<tbody>
<tr>
<td><strong>B17 Side and Rear Setbacks</strong></td>
<td>No</td>
</tr>
</tbody>
</table>

Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impact on existing dwellings.

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>North-east (side)</strong></td>
<td>Required</td>
</tr>
<tr>
<td>0-0.2m or 1m</td>
<td>0m, 2.7m</td>
</tr>
<tr>
<td><strong>South-west (side)</strong></td>
<td>0-0.2m or 1m</td>
</tr>
<tr>
<td><strong>South-east (rear)</strong></td>
<td>0-0.2m or 1m</td>
</tr>
</tbody>
</table>

| **Second floor** | Required | Proposed |
|---|---|
| **North-east (side)** | 6.09m | 4.5m, 5m |
| **South-west (side)** | 5.89m | 5.3m |
| **South-east (rear)** | 5.69m | 3.05m |

<p>| | |</p>
<table>
<thead>
<tr>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B18 Walls on Boundaries</strong></td>
<td>Yes, subject to condition</td>
</tr>
</tbody>
</table>

Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.

**North-east elevation**
Length of wall is compliant, however height of wall does not comply (4.1-4.2m).

**South-west elevation**
Length of wall is compliant. Average height is 3.3m – variation sought.

A condition will be placed on any permit issued requiring full compliance with B18 along the wall located on north-east elevation.

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td><strong>B19 Daylight to Existing Windows</strong></td>
<td>Yes</td>
</tr>
</tbody>
</table>

Allow adequate daylight into existing habitable room windows.

The proposal is well setback from property boundaries to ensure daylight to existing windows is maintained.

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B20 North Facing Windows</strong></td>
<td>Yes</td>
</tr>
</tbody>
</table>

Allow adequate solar access to existing north-facing habitable

No north facing windows on adjoining properties are affected.
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>B21</td>
<td>Overshadowing Open Space</td>
<td>Yes</td>
<td>Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 December.</td>
</tr>
<tr>
<td>B22</td>
<td>Overlooking</td>
<td>Yes</td>
<td>Screening to a height of 1.7m will be provided to all side facing windows and terrace areas.</td>
</tr>
<tr>
<td>B23</td>
<td>Internal Views</td>
<td>Yes</td>
<td>The development has been designed so that there will be no views into other apartments within the development.</td>
</tr>
<tr>
<td>B24</td>
<td>Noise Impacts</td>
<td>Yes</td>
<td>The development will not generate any noise above that typically expected from a residential building.</td>
</tr>
<tr>
<td>B25</td>
<td>Accessibility</td>
<td>Yes</td>
<td>Entries are easily accessible for people with limited mobility and a lift is provided to all floors. The development could be retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td>B26</td>
<td>Dwelling Entry</td>
<td>Yes</td>
<td>The entries to the development are easily identifiable from the street.</td>
</tr>
<tr>
<td>B27</td>
<td>Daylight to New Windows</td>
<td>Yes</td>
<td>All habitable windows have direct access to daylight.</td>
</tr>
<tr>
<td>B28</td>
<td>Private Open Space</td>
<td>Yes</td>
<td>Complies.</td>
</tr>
<tr>
<td>B29</td>
<td>Solar Access to Open Space</td>
<td>Yes</td>
<td>Appropriate solar access to the private open space areas is provided.</td>
</tr>
<tr>
<td>B30</td>
<td>Storage</td>
<td>Yes</td>
<td>A storage shed of 6m² in size is provided in the rear open space of each dwelling.</td>
</tr>
<tr>
<td>B31</td>
<td>Design Detail</td>
<td>Yes</td>
<td>Complies.</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------</td>
<td>----------</td>
</tr>
<tr>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| **B32 Front Fences** | Encourage front fence design that respects the existing or preferred neighbourhood character. | No | Required: 1.5m | Proposed: 1.8-2 metres  
Refer report. |
| **B33 Common Property** | Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas. | Yes | Complies. | |
| **B34 Site Services** | Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive. | Yes | Complies. | |
1. Purpose and background
To report a planning permit application for the construction of two double storey dwellings on a lot with an area of 768.68 square metres (refer Attachment 1) at 42 Teddington Road, Hampton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>KG Architecture</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>1 March 2017</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>26 July 2017</td>
</tr>
</tbody>
</table>

2. Policy implications
Planning permit requirements
Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two dwellings on a lot.

3. Stakeholder Consultation
External referrals
There were no external referrals required to be made in accordance with Clause 66 of the Bayside Planning Scheme.

Internal referrals
The application was referred to the following Council departments for comment:

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traffic</td>
<td>No objection subject to conditions.</td>
</tr>
<tr>
<td>Drainage</td>
<td>No objection subject to conditions.</td>
</tr>
</tbody>
</table>

Public notification
The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and three objections were received. The following concerns were raised:
- Single Dwelling Covenant;
- Overshadowing of Solar Panels;
- Car Parking and Traffic;
- Declining Property Value;
- Damage to Telecommunications Pit; and
- Damage to Property.

Consultation meeting
A consultation meeting was held on 31 July 2017 attended by the permit applicant and 2 objectors. As a result of this meeting one objection was withdrawn (i.e. 2 objections now remain).
4. **Recommendation**

That Council:

Issues a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning application 2017/117/1** for the land known and described as **42 Teddington Road, Hampton** for the **construction of two double storey dwellings** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans advertised but modified to show:
   a) The double garage to Dwelling 1 converted into a single garage with tandem car space with a minimum side setback of 2m.
   b) The entry to Dwelling 1 located along the front facade of the dwelling.
   c) The front wall of Dwelling 1 setback a minimum of 8.5 metres from the street, without altering any other setbacks.
   d) The width of each crossover where reduced to 3 metres with a 1 metre offset provided to the nearest side boundary.
   e) The single garages a minimum of 3.5 metres wide and 6 metres long with dimensions showing this.
   f) The single garages provided with a garage door of 3 metres wide.
   g) Both driveways must be suitably paved preferably concreted.
   h) Adequate sight lines provided where each driveway intersects with the front footpath as per AS2890.1 with all structures, foliage, front and side fences within this are to be a maximum of 0.9 metres high.
   i) All ground and first floor side and rear setbacks to be made compliant with Standard B17, without altering any other setbacks. An appropriate degree of articulation must remain to the satisfaction of the responsible authority.
   j) The location of bin and recycling enclosures, mailboxes and other site facilities.
   k) A notation that the proposed storage sheds will be 6 cubic metres.
   l) Location of all plant and equipment, including hot water services and air conditioners etc.
   m) Plant equipment is to be located away from habitable room windows of dwellings and the adjoining properties habitable rooms.
   n) A schedule of construction materials, external finishes and colours (incorporating for example paint samples).
   o) Water sensitive urban design measures in accordance with Condition 7.

All to the satisfaction of the Responsible Authority.

2. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority

3. Before the occupation of the site commences or by such later date as is approved in writing by the Responsible Authority, all buildings and works must be carried...
out and completed to the satisfaction of the Responsible Authority.

4. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.

5. All pipes (except downpipes), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

6. The walls on the boundary of the adjoining properties shall be cleaned and finished to the satisfaction of the Responsible Authority.

7. Before the development starts, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must show:
   a) The type of water sensitive urban design stormwater treatment measures to be used.
   b) The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaped areas.
   c) Design details of the water sensitive urban design stormwater treatment measures, including cross sections.

   These plans must be accompanied by a report from an industry accepted performance measurement tool which details the treatment performance achieved and demonstrates the level of compliance with the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999.

8. Before the occupation of the development starts, new or altered vehicle crossing(s) servicing the development must be constructed to the satisfaction of the Responsible Authority and any existing disused or redundant crossing or crossing opening must be removed and replaced with footpath/nature strip/kerb and channel, to the satisfaction of the Responsible Authority.

9. Before the development starts, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show:
   a) A survey, including botanical names of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009.
   b) A survey including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
   c) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant. Plantings must be 80% indigenous by species type and count.
   d) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
   e) Details of surface finishes of pathways and driveways.

10. Before the occupation of the development the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

11. The landscaping shown on the endorsed plans must be maintained to the
satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

12. Before the development starts, the applicant must submit approval from Telstra stating that the pit on the nature strip can be made trafficable, to the satisfaction of the Responsible Authority.

13. Before the development starts tree protection fencing is to be established around the street trees marked for retention prior to demolition and maintained until all works on site are complete. The fencing is to be constructed and secured so its positioning cannot be modified by site workers. The fencing is to encompass the entire naturestrip under the drip line of the tree. The Tree Protection Zone is to be established and maintained in accordance with AS 4970-2009. During construction of the crossover, tree protection fencing may be reduced to the edge of the Council approved crossover to facilitate the construction of the crossover.

14. Before the development starts, the permit holder must apply to Council for the Legal Point of Discharge for the development from where stormwater is drained under gravity to the Council network.

15. Before the development, detailed plans indicating, but not limited to, the method of stormwater discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council’s Infrastructure Assets Department.

16. Prior to endorsement of the plan/s required under Condition 1 of this permit, the permit holder must pay a drainage levy in accordance with the amount specified under the Bayside Drainage Development Contributions Plan. The levy amount payable will be adjusted to include the Building Price Index applicable at the time of payment.

The levy payment shall be submitted to Council with the Bayside Drainage Contributions Levy Charge Sheet and it must include the Building Price Index applicable at the time of payment.

17. This permit will expire if one of the following circumstances applies:
   a) The development is not started within two years of the date of this permit.
   b) The development is not completed within four years of the date of this permit.

In accordance with Section 69 of the Planning and Environment Act 1987, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.

5. Council Policy

Council Plan 2017-2021

Relevant strategic objectives of the Council plan include:

- Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.
- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.
- Where a range of housing types is provided to accommodate the changing needs of the community, enabling people to age in place and providing opportunities for young adults and families to live and remain in the municipality.

Relevant strategies of the Council plan include:
• Make discretionary planning controls stronger, by advocating for Council’s planning and urban design objectives to state government.

Bayside Planning Scheme
• Clause 9 Plan Melbourne
• Clause 11 Settlement
• Clause 15 Built Environment and Heritage
• Clause 16 Housing
• Clause 21.02 Bayside Key Issues and Strategic Vision
• Clause 21.03 Settlement and Housing
• Clause 22.06 Neighbourhood Character Policy
• Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
• Clause 43.02 Design and Development Overlay (Schedule 3)
• Clause 45.06 Development Contributions Plan Overlay (Schedule 1)
• Clause 52.06 Car Parking
• Clause 55 Two or more dwellings on a lot
• Clause 65 Decision guidelines

6. Considerations
In considering this application, regard has been given to the State and Local Planning Policy Frameworks, the provisions of the Bayside Planning Scheme, objections received and the individual merits of the application.

6.1 Neighbourhood character
The site is located within Neighbourhood Character Precinct G1 and the proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

While the proposal does not include a formal landscaping plan, the concept landscaping shown on the floor plans includes adequate landscaping within the front and rear setbacks to provide a garden setting for the dwelling to sit within. The plans also show the planting of a number of large trees. The building has been sited to provide an overall impression of space between buildings as viewed from the streetscape. The proposed roof is predominantly flat, however does include asymmetrical roof sections towards the front façade which draw on and respond to the pitched roof forms which are predominant in the area.

The proposed double garage to Dwelling 1 dominates the view of the building from the streetscape. The garage projects significantly forward of the entry to the dwelling. A condition has been recommended requiring the garage to Dwelling 1 to be converted to a single garage (with tandem car parking space) to reduce its visual prominence and allow for the entry to be relocated to the front façade.

6.2 Compliance with Clause 55 (ResCode)
An assessment against the requirements of Clause 55 is provided at Attachment 4. Those non-compliant standards are discussed below:

Integration with the Street (Standard B5)
The current entry to Dwelling 1 is to be located behind the double garage and does not provide adequate integration with the streetscape. A condition will be required that this
entry to be moved to the front of the dwelling. This will require the double garage to become a single garage, with tandem car space to the front.

**Street Setback (Standard B6)**

The street setback provided to Dwelling 2 complies with Standard B6. The street setback provided to Dwelling 1 is not compliant with the standard or the objective. The setback for Dwelling 2 is 11 metres and the setback for Dwelling 1 is 8 metres.

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>9m</td>
<td>8.0m (Dwelling 1)</td>
<td>1.0m</td>
</tr>
<tr>
<td></td>
<td>11.0m (Dwelling 2)</td>
<td>No variation required.</td>
</tr>
</tbody>
</table>

The neighbouring dwelling at 40 Teddington Road is adjacent proposed Dwelling 1, and has an 8.5 metre setback. Given this, a condition will be introduced requiring the Dwelling 1 setback to be increased to 8.5 metres. This will provide an adequate transition across the site from the 8.5 metre setback at 40 Teddington Road to the 10 metre setback on the eastern neighbouring dwelling at 44 Teddington Road. Subject to this condition, the objective of the street setback standard, which is to respect the existing neighbourhood character, would be met.

**Site Coverage (Standard B8)**

The current site coverage for the proposal is 52.5%. It is considered that once the plans are amended to show the recommended conditions, this would result in a site coverage closer to 50%. Any minor variation that may remain would be acceptable because the site coverage would be responsive to the features of the site and is sufficient landscape space would remain for the required plantings.

**Energy Efficiency (Standard B10)**

The main living areas include large windows and the first floor includes large north facing windows to maximise the amount of solar energy available to the dwelling. The site has a north-south orientation a narrow frontage. It is therefore considered that the design response is appropriate for the site to make appropriate use of solar energy.

**Landscaping (Standard B13)**

Landscaping plans have not yet been submitted by the applicant and a condition is recommended requiring the applicant to submit a landscape plan to the satisfaction of the Responsible Authority before development can commence. It is noted however that there is sufficient area on the site for the planting of landscaping that will contribute to the preferred landscape outcome for this site and neighbourhood.

**Access (Standard B14)**

The proposed development makes use of an existing 3.2 metre crossover, and proposes to construct an additional 3.2 metre wide crossover. The proposed crossovers will account for approximately 42% of the street frontage which exceeds the 40% requirement of Standard B14. A condition will be recommended requiring the crossovers to be reduced to 3 metres in width which will meet the 40% requirement of the standard. Another condition will be recommended requiring the applicant to obtain advice from Telstra that the pit is made trafficable.
Side and Rear Setbacks (Standard B17)

**Dwelling 1**

<table>
<thead>
<tr>
<th></th>
<th>Ground Floor</th>
<th></th>
<th>First Floor</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
<td>Proposed</td>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>West (side)</td>
<td>0m or 2m</td>
<td>1.7m</td>
<td>3.44m</td>
<td>2.6m</td>
</tr>
<tr>
<td>South (rear)</td>
<td>0m or 3m</td>
<td>8.8m</td>
<td>4.44m</td>
<td>7.15m</td>
</tr>
</tbody>
</table>

**Dwelling 2**

<table>
<thead>
<tr>
<th></th>
<th>Ground Floor</th>
<th></th>
<th>First Floor</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
<td>Proposed</td>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>East (side)</td>
<td>0m or 2m</td>
<td>3.1m</td>
<td>3.44m</td>
<td>2.75m</td>
</tr>
<tr>
<td>South (rear)</td>
<td>0m or 3m</td>
<td>8.5m</td>
<td>4.44m</td>
<td>8.89m</td>
</tr>
</tbody>
</table>

At a ground floor level the proposed setback to the western boundary on the ground floor does not comply with Standard B17. At first floor level the setbacks to the ensuite and walk in robe for both dwellings do not comply with the standard, as well as the bathroom and rear bedrooms. A condition is recommended requiring these setbacks be altered to comply with Standard B17, without altering any other setbacks because there is no reason to vary the setbacks on this occasion.

**Dwelling Entry (Standard B26)**

The current entry to Dwelling 1 is to be located behind the double garage and has a poor sense of address. A condition will be recommended which requires this entry to move to the front of the dwelling, and will require the double garage to become a single garage, with tandem car space to accommodate this.

**Storage (Standard B30)**

An externally accessible storage shed is shown on the plans at the rear of each dwelling however does not note the volume of the shed. A condition is recommended that the applicant note the proposed volume of the shed to comply with Standard B30.

**Site Services (Standard B34)**

A condition will be recommended requiring the applicant to update the floor plans to show the location of bin and recycling enclosures, mailboxes and other site facilities.

### 6.3 Car parking and traffic

Both of the proposed dwellings contain four bedrooms. Pursuant to the requirements of Clause 52.06, four bedroom dwellings require two car parking spaces to be provided. Both dwellings have been provided with two car parking spaces and comply with the statutory requirements.

The proposal was referred to Council’s internal traffic department for comment. They supported the application subject to conditions regarding the size of garages, gradients of driveways and location and width of crossovers.

Existing parking problems and traffic congestion in the area cannot be addressed through the current application, nor should the burden of relieving these existing problems be imposed on the developer of the subject land.
6.4 Street tree removal

No street trees are proposed for removal in this application.

6.5 Vegetation & Landscaping

Landscape plans have not yet been received by Council for this application and it is recommended that a condition be included requiring a landscape plan to the satisfaction of the Responsible Authority be submitted before development can commence.

The floor plans show concept landscaping and shows the removal of all of the existing vegetation from the site and that adequate replacement planting has been included. There does not appear to be any significant vegetation on the site and there is no planning controls requiring the retention of existing vegetation on this site. Accordingly, the proposed vegetation removal is acceptable.

6.6 Objections received

Issues raised by objectors that have not been addressed in the assessment above, are discussed below.

Single Dwelling Covenant

There is no single dwelling covenant which impacts the subject site.

Overshadowing of Solar Panels

The primary assessment criteria in the planning scheme relevant to this ground is found at Clause 55.03-5 in which it requires new development to achieve and protect energy efficient dwellings and residential buildings and that buildings should be sited and designed to ensure that the energy efficiency of existing dwellings on adjoining lots is not unreasonably reduced. In this instance, the solar panels may be partially overshadowed by the proposed building after 3pm. Solar panels are designed to produce most energy from the morning light. Therefore it is considered that this degree of loss is unreasonable and the proposal does not seek to minimise its impacts on an existing solar collecting device, contrary to Clauses 55.03-5 of the planning scheme.

Declining Property Value

The Victorian Civil and Administrative Tribunal has consistently found that property values are speculative and not a planning matter. Fluctuations in property prices are not a relevant consideration in assessing an application under the provisions of the Planning & Environment Act 1987, or the Bayside Planning Scheme.

Telecommunications Pit

A condition has been recommended requiring the applicant to submit a statement from Telstra stating that the pit is trafficable.

Damage to Property

The potential for damage arising to the property during construction are outside the scope of the planning process and are not sufficient to warrant the refusal of the application. These matters are dealt with by the building surveyor.

Some noise and other off site impacts are inevitable when any construction occurs. The developer will be required to meet relevant Local Laws and EPA regulations regarding construction practices to ensure these impacts are mitigated.

Support Attachments

1. Development Plans
2. Site and Surrounds
3. Neighbourhood Character Assessment
4. Clause 55 (ResCode) Assessment
ATTACHMENT 2
Site Surrounds and Imagery

Figure 1. Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐️</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>○</td>
</tr>
<tr>
<td>Withdrawn</td>
<td>▲</td>
</tr>
</tbody>
</table>
Figure 2. View of the subject site from the Northwest.

Figure 3. View of the subject site from the Northeast.
Neighbourhood Character Precinct G1

Preferred Future Character Statement

The well-articulated dwellings sit within landscaped gardens, some with established trees. New buildings are frequent and are designed to respond to the site, and include a pitched roof form to reflect the dominant forms in the area. Buildings are occasionally built to the side boundary, however the overall impression of the streetscape is of buildings within garden settings due to the regular front setbacks, well vegetated front yards and additional street tree planting in the area.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To maintain and enhance the garden settings of the dwellings.</td>
<td>• Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and vegetation.</td>
<td>Lack of landscaping and substantial vegetation. Removal of large trees. Planting of environmental weeds.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Retain large, established trees and provide for the planting of new trees wherever possible.</td>
<td></td>
<td>No landscape plan has been submitted with the application and will be required as a condition, should a planning permit be issued. Concept landscaping shown on the floor plans shows the planting of substantial trees and shrubs within both the front and rear setbacks.</td>
</tr>
<tr>
<td></td>
<td>• Buildings should be sited to allow space for the planting of trees and shrubs.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To maintain the rhythm of visual separation between buildings.</td>
<td>• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td></td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The current proposal includes the provision of a 1.7m side setback to the western boundary. It has been recommended a condition be added requiring this setback to be increased to 2m to provide space between buildings and to accommodate appropriate landscaping within this setback.</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------------------</td>
</tr>
</tbody>
</table>
| To ensure that new buildings provide an articulated and interesting façade to the street. | - Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, combinations of materials, textures or colours or other elements providing appropriate articulation.  
- Use pitched roof forms with eaves.                                            | Large, bulky buildings with poorly articulated front and side wall surfaces.                        | Responds  
The proposed design incorporates a range of materials, textures and design elements to provide appropriate articulation and visual interest when viewing the dwelling. While the majority of the roof is flat, the front of portion includes an asymmetrical roof pitch which responds to the angular elements of the surrounding pitched roof forms. |
| To maintain the openness of the streetscape.                               |                                                                                                      | High, solid front fencing.                                                                      | Responds  
No front fence is proposed.                                                                                                                   |
**ATTACHMENT 4**

**ResCode (Clause 55) Assessment**

ResCode Clause 55 (Two or More Dwellings on a Lot and Residential Buildings)

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong> Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td>Yes</td>
<td>Refer Attachment 2.</td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong> Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to services and facilities to support two dwellings.</td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong> Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong> Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td>Yes</td>
<td>Any upgrades required will be the responsibility of the developer.</td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong> Integrate the layout of development with the street.</td>
<td>No</td>
<td>The entry to Dwelling 1 is located behind the proposed garage and does not integrate with the street.</td>
</tr>
</tbody>
</table>
| **B6 Street Setback** The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site. | No | Minimum: 9m
Proposed: 8.05 |
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>B7 Building Height</td>
<td>Building height should respect the existing or preferred neighbourhood character</td>
<td>Yes</td>
<td>Required: 8m</td>
<td>Proposed: 6.53m</td>
</tr>
<tr>
<td>B8 Site Coverage</td>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td>No</td>
<td>Maximum: 50%</td>
<td>Proposed: 52.5%</td>
</tr>
<tr>
<td>B9 Permeability</td>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>Yes</td>
<td>Minimum: 20%</td>
<td>Proposed: 29%</td>
</tr>
<tr>
<td>B10 Energy Efficiency</td>
<td>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td>No</td>
<td></td>
<td>Main living areas are located to the south of the dwelling on the ground floor and will have limited access to solar energy. Refer to report.</td>
</tr>
<tr>
<td>B11 Open Space</td>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td>N/A</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B12 Safety</td>
<td>Layout to provide safety and security for residents and property.</td>
<td>Yes</td>
<td></td>
<td>No safety issues are considered to be likely to arise.</td>
</tr>
<tr>
<td>B13 Landscaping</td>
<td>To provide appropriate landscaping. To encourage: Development that respects the landscape character of the neighbourhood. Development that maintains and enhances habitat for plants and animals in locations of habitat importance. The retention of mature vegetation on the site.</td>
<td>No</td>
<td></td>
<td>At this stage no landscape plans have been submitted, only concept landscaping shown on the floor plans.</td>
</tr>
</tbody>
</table>
**B14 Access**
Ensure the safe, manageable and convenient vehicle access to and from the development.
Ensure the number and design of vehicle crossovers respects neighbourhood character.

<table>
<thead>
<tr>
<th></th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Appropriate vehicular access is provided.</td>
</tr>
<tr>
<td></td>
<td><strong>Maximum</strong>: 40% of street frontage</td>
</tr>
<tr>
<td></td>
<td><strong>Proposed</strong>: 42% of street frontage</td>
</tr>
<tr>
<td></td>
<td>If a condition is added to reduce driveways to 3m, the standard will be met</td>
</tr>
</tbody>
</table>

**B15 Parking Location**
Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>The proposed car parking areas are appropriately located.</td>
</tr>
</tbody>
</table>

**B17 Side and Rear Setbacks**
Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impact on existing dwellings.

<table>
<thead>
<tr>
<th></th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Refer report and table below. Areas of non-compliance are underlined.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Dwelling 1</th>
<th>Ground Floor</th>
<th></th>
<th>First Floor</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
<td>Proposed</td>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>West (side)</td>
<td>0m or 2m</td>
<td>1.7m</td>
<td>3.44m</td>
<td>2.6m</td>
</tr>
<tr>
<td>South (rear)</td>
<td>0m or 3m</td>
<td>8.8m</td>
<td>4.44m</td>
<td>7.15m</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Dwelling 2</th>
<th>Ground Floor</th>
<th></th>
<th>First Floor</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
<td>Proposed</td>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>East (side)</td>
<td>0m or 2m</td>
<td>3.1m</td>
<td>3.44m</td>
<td>2.75m</td>
</tr>
<tr>
<td>South (rear)</td>
<td>0m or 3m</td>
<td>8.5m</td>
<td>4.44m</td>
<td>8.89m</td>
</tr>
</tbody>
</table>

**B18 Walls on Boundaries**
Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>Dwelling 1</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Maximum Height</strong>: 3.6m</td>
</tr>
<tr>
<td></td>
<td><strong>Proposed</strong>: 3.35m</td>
</tr>
<tr>
<td></td>
<td><strong>Maximum Average Height</strong>: 3.2m</td>
</tr>
<tr>
<td></td>
<td><strong>Proposed</strong>: 3.17m</td>
</tr>
<tr>
<td></td>
<td><strong>Maximum Length</strong>: 20m</td>
</tr>
<tr>
<td></td>
<td><strong>Proposed</strong>: 18m</td>
</tr>
<tr>
<td></td>
<td><strong>Dwelling 2</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Maximum Height</strong>: 3.6m</td>
</tr>
<tr>
<td></td>
<td><strong>Proposed</strong>: 3.35m</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
</tr>
<tr>
<td>4.6</td>
<td>B19 Daylight to Existing Windows</td>
</tr>
<tr>
<td></td>
<td>Allow adequate daylight into existing habitable room windows.</td>
</tr>
<tr>
<td>4.6</td>
<td>B20 North Facing Windows</td>
</tr>
<tr>
<td></td>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
</tr>
<tr>
<td>4.6</td>
<td>B21 Overshadowing Open Space</td>
</tr>
<tr>
<td></td>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
</tr>
<tr>
<td>4.6</td>
<td>B22 Overlooking</td>
</tr>
<tr>
<td></td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
</tr>
<tr>
<td>4.6</td>
<td>B23 Internal Views</td>
</tr>
<tr>
<td></td>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
</tr>
<tr>
<td>4.6</td>
<td>B24 Noise Impacts</td>
</tr>
<tr>
<td></td>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
</tr>
<tr>
<td>4.6</td>
<td>B25 Accessibility</td>
</tr>
<tr>
<td></td>
<td>Consider people with limited mobility in the design of developments.</td>
</tr>
<tr>
<td>4.6</td>
<td>B26 Dwelling Entry</td>
</tr>
<tr>
<td></td>
<td>Provide a sense of identity to each dwelling.</td>
</tr>
<tr>
<td>4.6</td>
<td>B27 Daylight to New Windows</td>
</tr>
<tr>
<td></td>
<td>Allow adequate daylight into new habitable room windows.</td>
</tr>
<tr>
<td>4.6</td>
<td>B28 Private Open Space</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Maximum Average Height:** 3.2m  
**Proposed:** 3.35m  
**Maximum Length:** 20m  
**Proposed:** 15m
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.6</td>
<td>Provide reasonable recreation and service needs of residents by adequate provision.</td>
<td><strong>Proposed:</strong> Each dwelling is provided with at least 70m² of secluded private open space.</td>
<td></td>
</tr>
<tr>
<td>B29</td>
<td>Solar Access to Open Space</td>
<td>Yes</td>
<td>Appropriate solar access to the private open space areas is provided.</td>
</tr>
<tr>
<td></td>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B30</td>
<td>Storage</td>
<td>No</td>
<td>A storage shed of is provided in the rear open space of each dwelling, however notation is required to</td>
</tr>
<tr>
<td></td>
<td>Provide adequate storage facilities for each dwelling.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B31</td>
<td>Design Detail</td>
<td>Yes</td>
<td>Refer Attachment 1.</td>
</tr>
<tr>
<td></td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B32</td>
<td>Front Fences</td>
<td>Yes</td>
<td><strong>Required:</strong> 1.2m  <strong>Proposed:</strong> No front fence is proposed.</td>
</tr>
<tr>
<td></td>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B33</td>
<td>Common Property</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B34</td>
<td>Site Services</td>
<td>No</td>
<td>Plans do not show clotheslines, mailboxes and storage areas as required. Space for meters has been provided alongside the entries of each dwelling.</td>
</tr>
<tr>
<td></td>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
4.7 7 BENT PARADE, BLACK ROCK
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2016/598/1 WARD: SOUTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/217922

1. Purpose and background

To report a planning permit application for the construction of a double storey dwelling on a lot with an area of 432 square metres and the associated removal of three trees in a Vegetation Protection Overlay (refer Attachment 1) at 7 Bent Parade, Black Rock (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Change of Plan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>17 July 2017 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>16 September 2017</td>
</tr>
</tbody>
</table>

2. Policy implications

Planning permit requirements
Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of one dwelling on a lot less than 500 square metres.
Clause 42.02-3 (Vegetation Protection Overlay) – Removal of vegetation native to Australia.

3. Stakeholder Consultation

External referrals
There were no external referrals required to be made in accordance with Clause 66 of the Bayside Planning Scheme.

Internal referrals
The application was referred to the following Council departments for comment:

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Drainage</td>
<td>No objection, subject to conditions.</td>
</tr>
</tbody>
</table>

Public notification

The application was advertised pursuant to Sections 52(1) (a) and (d) of the Planning and Environment Act 1987 and two objections were received. The following concerns were raised:
- Implied Easements;
- Overshadowing;
- Street Setback;
- Site Coverage;
- Side and Rear Setbacks;
- Neighbourhood Character; and
- Loss of Vegetation.
Consultation meeting

The applicant declined a consultation meeting.

The applicant lodged amended plans attempting to respond to the stated concerns, including increased setbacks from boundaries and decreased hard surface areas throughout the site. The amended plans were advertised to the objectors, neither of whom withdrew their objection.

4. Recommendation

That Council:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of planning application 5/2016/598/1 for the land known and described as 7 Bent Parade, Black Rock, for the construction of a double storey dwelling on a lot less than 500 square metres and the associated removal of native vegetation in a Vegetation Protection Overlay in accordance with the endorsed plans and subject to the following conditions:

1. Before the use and/or development start/s, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans amended and Council date stamped 17 July 2017 but modified to show:
   a) The ground floor setback to the eastern boundary to comply with Standard A10 of the Bayside Planning Scheme.
   b) Deletion of the first floor ensuite to bedroom 1. The first floor ensuite can be relocated to the walk in robe if preferred, and a robe can be located to the western side of bedroom 1, provided it has a minimum side setback of 1.8m and maintains recession behind the front façade of the bedroom (like the current ensuite).
   c) Location of all plant and equipment, including hot water services and air conditioners etc.
   d) Plant equipment is to be located away from habitable room windows of dwellings and the adjoining properties habitable rooms.
   e) Water sensitive urban design measures in accordance with Condition 7.

2. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

3. Before the occupation of the site commences or by such later date as is approved in writing by the Responsible Authority, all buildings and works must be carried out and completed to the satisfaction of the Responsible Authority.

4. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.

5. All pipes (expect downpipes), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

6. The walls on the boundary of the adjoining properties shall be cleaned and finished to the satisfaction of the Responsible Authority.

7. Before the development starts, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority.
Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must show:

a) The type of water sensitive urban design stormwater treatment measures to be used.

b) The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaped areas.

c) Design details of the water sensitive urban design stormwater treatment measures, including cross sections.

3. These plans must be accompanied by a report from an industry accepted performance measurement tool which details the treatment performance achieved and demonstrates the level of compliance with the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999.

8. Before the development starts, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show:

a) A survey, including, botanical names of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009.

b) A survey including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.

c) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant. Plantings must be 80% indigenous by species type and count.

d) The planting of one (1) indigenous canopy tree within the front setback, which has the capacity to reach a mature height of 15m and spread of 8m.

e) The planting of two (2) indigenous canopy trees within the rear setback, which has the capacity to reach a mature height of 8m and spread of 5m.

f) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.

g) Details of surface finishes of pathways and driveways.

9. Before the occupation of the development the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

10. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

11. Before the development starts, including any related demolition or removal of vegetation, a Tree Management Plan (report) and Tree Protection Plan (drawing), to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority.

12. The Tree Management Plan must be specific to the trees shown on the Tree Protection Plan, in accordance with AS4970-2009, prepared by a suitably qualified arborist and provide details of tree protection measures that will be utilised to ensure all trees to be retained remain viable post-construction. Stages of development at which inspections are required to ensure tree protection measures are adhered to must be specified.
13. The Tree Protection Plan must be in accordance with AS4970-2009, be drawn to scale and provide details of:
   a) The Tree Protection Zone and Structural Root Zone for all trees to be retained on the site and for all trees on neighbouring properties where any part of the Tree Protection Zone falls within the subject site.
   b) The location of tree protection measures to be utilised.

14. All protection measures identified in the Tree Management and Protection Plans must be implemented, and development works undertaken on the land must be undertaken in accordance with the Tree Management and Protection Plans, to the satisfaction of the Responsible Authority.

15. Before the development starts, including demolition or removal of vegetation, the applicant must arrange for a suitably qualified wildlife management professional to determine if the existing possum drey is occupied prior to removal vegetation. If the drey is occupied, the applicant must provide a wildlife relocation method statement to the satisfaction of the Responsible Authority.

16. Before the development starts, including demolition or removal of vegetation, the name and contact details of the project arborist responsible for implementing the Tree Management Plan must be submitted to the Responsible Authority.

17. Before the development starts, the permit holder must apply to Council for the Legal Point of Discharge for the development from where stormwater is drained under gravity to the Council network.

18. Before the development, detailed plans indicating, but not limited to, the method of stormwater discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council's Infrastructure Assets Department.

19. This permit will expire if one of the following circumstances applies:
   a) The development is not started within two years of the date of this permit.
   b) The development is not completed within four years of the date of this permit.

4. In accordance with Section 69 of the Planning and Environment Act 1987, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.

5. Permit Notes
   - Council records indicate that there is a council stormwater drain running parallel to the southern property boundary. Council consider this asset to be protected by an implied easement. The plans indicate no proposals to encroach into the implied easement with any buildings or structures of note. Proposals to be built over the easement will require Build Over Easement consent from the responsible Authority/Authorities.

5. Council Policy
   Council Plan 2017-2021
   Relevant strategic objectives of the Council plan include:
   - Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.
• Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.

• Where a range of housing types is provided to accommodate the changing needs of the community, enabling people to age in place and providing opportunities for young adults and families to live and remain in the municipality.

Relevant strategies of the Council plan include:

• Make discretionary planning controls stronger, by advocating for Council’s planning and urban design objectives to state government.

Bayside Planning Scheme

• Clause 9 Plan Melbourne
• Clause 11 Settlement
• Clause 12 Environmental and Landscape Values
• Clause 13 Environmental Risks
• Clause 15 Built Environment and Heritage
• Clause 16 Housing
• Clause 21.02 Bayside Key Issues and Strategic Vision
• Clause 21.03 Settlement and Housing
• Clause 21.04 Environmental and Landscape Values
• Clause 21.05 Environmental Risks
• Clause 21.06 Built Environment and Heritage
• Clause 22.06 Neighbourhood Character Policy
• Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
• Clause 43.02 Design and Development Overlay (Schedule 1)
• Clause 52.06 Car Parking
• Clause 54 One dwelling on a lot

6. Considerations

In considering this application, regard has been given to the State and Local Planning Policy Frameworks, the provisions of the Bayside Planning Scheme, objections received and the individual merits of the application.

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct E4 and the proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The proposed dwelling is a modern style dwelling which will be set within a coastal garden setting. The materials, colours and design will provide a visually light dwelling which fits the overall coastal setting and feel of the area. Updated landscape plans have not been submitted, but a condition has been recommended requiring these to be submitted to the satisfaction of the responsible authority and will require indigenous coastal trees.

A condition has been recommended requiring the proposed first floor wall on the western boundary to be set in a minimum of 1.8m. This condition has been recommended as the
wall on boundary at a first floor level is not respectful of the existing neighbourhood character. The wall on boundary will appear unnecessarily bulky, especially when viewed obliquely from the street to the west of the site, where the lack of articulation and design elements to provide visual interest on this aspect of the building would be apparent.

6.2. **Compliance with Clause 55 (ResCode)**

An assessment against the requirements of Clause 55 is provided at Attachment 4. Those non-compliant standards are discussed below:

**Side and Rear Setbacks (Standard A10)**

The ground floor eastern setback is setback 1.8m from the boundary. Pursuant to Standard A10, this wall is required to be setback 2m from the boundary. A condition will be recommended requiring the applicant increase this setback to 2m to comply with the Standard and allow for greater landscaping.

<table>
<thead>
<tr>
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<th>First Floor</th>
</tr>
</thead>
<tbody>
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<td><strong>Proposed</strong></td>
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<td><strong>East (side)</strong></td>
<td>0m or 2m</td>
</tr>
<tr>
<td><strong>West (side)</strong></td>
<td>0m or 2m</td>
</tr>
<tr>
<td><strong>South (rear)</strong></td>
<td>0m or 3m</td>
</tr>
</tbody>
</table>

While the walls do not comply with the Standard A10 as varied by Schedule 3 to the Neighbourhood Residential Zone, it is considered that the walls satisfy the objective listed in Clause 54.04-1 of the Bayside Planning Scheme.

The setbacks provided respect the prevailing neighbourhood character of the area and limit amenity impacts on existing dwellings. Bedroom 2 (to the rear) has been further setback from the side boundaries to provide articulation and a greater buffer to the rear of the site where the views are more sensitive.

The reduced setbacks would have no unreasonable impact by way of overlooking and/or overshadowing. Furthermore, compliance with the standards would be virtually impossible given the minimal width of the property, and the impacts are not so significant as to warrant the total deletion of the first floor. The proposed setbacks would not be too dissimilar to that of the adjoining properties and hence would not look out of place along this streetscape.

**Walls on Boundary (Standard A11)**

The proposed wall on the eastern boundary complies with Standard A11.

The proposed wall on the ground floor of the western boundary complies with Standard A11 and is a common party wall with the neighbouring dwelling. The first floor wall on the western boundary of the site exceeds the maximum height of walls on boundary as stated in Standard A11. A condition has been recommended requiring the first floor wall on the west elevation to be set in a minimum of 1.8m from the boundary to ensure no unreasonably impact upon neighbouring amenity (including streetscape amenity).

6.3. **Car parking and traffic**

The proposed new dwelling contains three bedrooms. Pursuant to Clause 52.06, this development will require a minimum of 2 car parking spaces. The proposal provides spaces for three on site car parking spaces, exceeding the requirements.

6.4. **Street tree removal**

No street trees are proposed for removal as part of this application.

6.5. **Vegetation & Landscaping**
The objectives of the VPO3 are to retain the amenity, aesthetic character and habitat value of native vegetation by preventing the loss of native (particularly indigenous) vegetation and promoting the regeneration and replanting of indigenous species in the Beaumaris and Black Rock area.

The objectives of the VPO3 must be considered in association with the other statutory controls governing the site and relevant State and Local Planning Policies. This includes the overarching purposes of the relevant zone and overlays and the need to ensure decisions reflect broader strategic policy objectives. Such strategic policy objectives include encouraging urban consolidation and the efficient use of established residential land to reduce the outward expansion of the metropolitan area.

The application plans show the removal of eight trees from the site including three trees protected by the VPO3. The table below identifies those trees protected by the VPO3, those protected by the Local Law and those which are not protected by any statutory mechanism. Indigenous trees are marked with a *.

<table>
<thead>
<tr>
<th>VPO3 protected trees</th>
<th>Local Law protected trees</th>
<th>Trees not protected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed for removal</td>
<td>Proposed for retention</td>
<td>Proposed for removal</td>
</tr>
<tr>
<td>Tree 4, 11 &amp; 20.</td>
<td>Tree 10, 13, 15, 21</td>
<td>Tree 8 &amp; 4</td>
</tr>
</tbody>
</table>

From an arboriculture perspective Council’s Arborist has reviewed the application and advises that trees 4, 11 and 20 all have low retention value and are appropriate for removal, further stating that replacement of these trees with new native vegetation would (over time) provide a superior outcome.

An assessment against the decision guidelines of the VPO3 is provided at Attachment 4. The proposed extent of vegetation removal is considered to be acceptable when assessed against the decision guidelines of the VPO3. The character of the area, including the extent of indigenous vegetation present, will be increased once replacement plantings are undertaken. The extent of removal is justified when considered against the level of development proposed. Therefore the proposed vegetation removal is considered to comply with the objectives of the VPO3, subject to the provision of numerous replacement trees that will be required by condition of permit.

A number of trees are located on adjoining sites with their Tree Protection Zones (TPZ) extending into the subject site. As such consideration must be given to the impact of the development upon these trees. Council’s Arborist has advised that the previously submitted tree Protection Plan and Tree Management Plan will need to be amended to ensure these trees remain viable both during and post construction. A condition to this effect is included in the recommendation.

6.6. Objections received

Issues raised by objectors that have not been addressed in the assessment above, are discussed below.

Implied Easements

Council drainage engineers have reviewed the application and found that an implied easement is present along the southern boundary of the site. No works are proposed over this easement.
Overshadowing, Street Setback and Site Coverage

As noted in Attachment 4, the proposal complies with these standards.

Support Attachments

1. Development Plans ↓
2. Site and Surrounds ↓
3. Neighbourhood Character Assessment ↓
4. Clause 55 Assessment ↓
5. Vegetation Protection Overlay Assessment ↓
Item 4.7 – Matters of Decision
Figure 1. Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>★</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>○</td>
</tr>
</tbody>
</table>
attachment 3

neighbourhood character (precinct g1) assessment

neighbourhood character precinct e4

preferred future character statement

the diverse dwelling styles sit within informal coastal gardens with large trees. there is a lightness to the structures and streetscapes due to the use of lighter building materials, colours and design detailing. the informal coastal feel is enhanced by street treatments including informal coastal street trees and the retention of the wide nature strips. buildings fronting the foreshore reflect their setting and provide a visually attractive built form interface with the reserve.

precinct guidelines

<table>
<thead>
<tr>
<th>objectives</th>
<th>design responses</th>
<th>avoid</th>
<th>planning officer assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>to maintain and enhance the garden settings of the dwellings.</td>
<td>prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs.</td>
<td>lack of landscaping and substantial vegetation.</td>
<td>responds</td>
</tr>
<tr>
<td>to enhance the bayside vegetation character of the area through the retention and planting of appropriate coastal species.</td>
<td>• retain established native and traditional coastal vegetation and provide for the planting of new indigenous coastal trees. • minimise paving in front garden areas including driveways and crossovers.</td>
<td>removal of large, native trees. front setbacks dominated by impervious surfaces. planting of environmental weeds.</td>
<td>responds</td>
</tr>
<tr>
<td>to ensure that building setbacks from boundaries contribute to the informality and</td>
<td>buildings should be sited to allow space for the planting of trees and shrubs.</td>
<td>loss of front garden space.</td>
<td>responds</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>spaciousness of the area and visual separation of the buildings.</td>
<td>• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td></td>
<td>The proposal includes a generous front setback and a condition has been recommended requiring adequate landscaping to be shown on a landscape plan.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The proposal is boundary to boundary at the front. There is a common party wall shared with the neighbour to the west of the subject site. The existing dwelling to the east of the site is set 2.86m from the common boundary and includes substantial vegetation in this space. This existing setback will provide visual separation between buildings.</td>
<td></td>
</tr>
<tr>
<td>To minimise the dominance of car parking facilities.</td>
<td>• Locate garages and car ports behind the line of the dwelling.</td>
<td>Car parking facilities that dominate the façade or view of the dwelling.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space.</td>
<td></td>
<td>The garage is located behind the line of the dwelling and does not dominate the façade or view of the dwelling, especially given the vegetation required in the front setback and the existing street trees which will soften the impact of the garage and dwelling more generally.</td>
</tr>
<tr>
<td>To encourage innovative architecture that reflects the coastal setting.</td>
<td>• New buildings should be individually designed to respond to the characteristics of the coastal location and the site.</td>
<td>Large bulky buildings Flat, poorly articulated front wall surfaces. High pitched roof forms with dormer windows.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Incorporate building elements and details that contribute to a lightness of structure.</td>
<td></td>
<td>The materials and colours selected for the proposed dwelling are light and will respond to the characteristics of the coastal location and surrounding dwellings.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The proposal features a flat roof, and is well articulated at the front façade.</td>
<td>The proposal features a flat roof, and is well articulated at the front façade.</td>
</tr>
<tr>
<td>To respect the identified heritage qualities of adjoining buildings.</td>
<td>• Where adjoining an identified heritage building, respect the height, building forms, siting and materials, in the new building design.</td>
<td>Period reproduction detailing.</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td></td>
<td>There are no surrounding heritage buildings.</td>
<td>There are no surrounding heritage buildings.</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>To use lighter looking building materials and finishes that complement the vegetation and coastal setting.</td>
<td>- Incorporate timber or other non-masonry wall materials where possible.</td>
<td>Heavy materials and design detailing (e.g. Large masonry columns and piers) Excessive use of render on external wall surfaces.</td>
<td>Responds: The proposal includes timber cladding and rendered finishes which are light in appearance and complement the vegetation and coastal setting.</td>
</tr>
<tr>
<td>To create a visually interesting and attractive built form interface with the foreshore reserve.</td>
<td>- Articulate the form buildings and elements, particularly front facades, and include elements that lighten the building form such as balconies, verandahs, non-reflective glazing and light-transparent balustrading. - Use a mix of contemporary and traditional coastal materials, textures and finishes, including render, timber, non-masonry sheeting, glazing, stone and brick. - Provide articulated roof forms to create an interesting skyline when viewed from the beach.</td>
<td>Buildings that have no relationship to the foreshore setting. Poorly articulated roof and building forms. Highly reflective materials or glazing.</td>
<td>N/A: The subject site is located approximately 150m from the foreshore and will not be visible from the beach.</td>
</tr>
</tbody>
</table>
### ATTACHMENT 4

**ResCode (Clause 54) Assessment**

#### ResCode Clause 54 (One Dwelling on a Lot)

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer report.</td>
</tr>
<tr>
<td>Design respects existing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character or contributes to a preferred</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A2 Integration with Street</strong></td>
<td>Yes</td>
<td>The dwellings appropriately address the street and entries are clearly identifiable from either the streetscape.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| **A3 Street Setback**             | Yes                     | Minimum: 7.19m
| Setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site | Proposed: 8.56m |
| **A4 Building Height**            | Yes                     | Required: 9m
| Building height respects the existing or preferred neighbourhood character. | Proposed: 7.08m |
| **A5 Site Coverage**              | Yes                     | Maximum: 50%
| Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site. | Proposed: 48.7% |
| **A6 Permeability**               | Yes                     | Minimum: 20%
| Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration. | Proposed: 39.26% |
| **A7 Energy Efficiency**          | Yes                     | The proposal provides appropriate solar access to the dwelling.          |
| Achieve and protect energy efficient dwellings. |                         |                                                                          |
| Ensure the development's orientation and layout reduce fossil fuel energy use and |                         |                                                                          |
makes appropriate use of daylight and solar energy.

**A8 Significant Trees**
Development respects the landscape character of the neighbourhood and retains significant trees on site.

| Yes | Refer report. |

**A10 Side and Rear Setbacks**
Ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

| No | Refer report and table below. Areas of non-compliance are underlined. |

<table>
<thead>
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<td><strong>Required</strong></td>
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<td>East (side)</td>
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<tr>
<td>West (side)</td>
<td>0m or 2m</td>
</tr>
<tr>
<td>South (rear)</td>
<td>0m or 3m</td>
</tr>
</tbody>
</table>

**A11 Walls on Boundaries**
Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

| No | Eastern Boundary |
|    | Maximum Height: 3.6m |
|    | Proposed: 3.2m |
|    | Maximum Average Height: 3.2m |
|    | Proposed: 3.2m |
|    | Maximum Length: 17.5m |
|    | Proposed: 9.46m |
|    | Western Boundary |
|    | Maximum Height: 3.6m |
|    | Proposed: 6.31m |
|    | Maximum Average Height: 3.2m |
|    | Proposed: 4.71m |
|    | Maximum Length: 17.5m |
|    | Proposed: 9.74m |

**A12 Daylight to existing windows**
To allow adequate daylight into existing habitable room windows.

| Yes | The proposal is setback from property boundaries to ensure daylight to existing windows is maintained. |

**A13 North Facing Windows**
Allow adequate solar access to existing north-facing habitable room windows.

<p>| Yes | No north facing windows on adjoining properties are affected. |</p>
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>A14 Overshadowing Open Space</td>
<td>Ensure buildings do not unreasonably overshadow existing secluded private open space.</td>
<td>Yes</td>
<td>Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 September.</td>
</tr>
<tr>
<td>A15 Overlooking</td>
<td>Limit views into existing secluded private open space and habitable room windows</td>
<td>Yes</td>
<td>Windows with potential for overlooking have been treated in accordance with Standard A15.</td>
</tr>
<tr>
<td>A16 Daylight to New Windows</td>
<td>Allows adequate daylight into new habitable room windows.</td>
<td>Yes</td>
<td>All habitable windows have direct access to daylight.</td>
</tr>
<tr>
<td>A17 Private Open Space</td>
<td>Provide adequate private open space for the recreation and service needs of residents.</td>
<td>Yes</td>
<td>Minimum: 25m² secluded, 40m² overall  Proposed: 126.64m² of open space including greater than 25m² of secluded open space.</td>
</tr>
<tr>
<td>A18 Solar Access to Open Space</td>
<td>Allow solar access into secluded private open space of a new dwelling.</td>
<td>Yes</td>
<td>Appropriate solar access to the private open space areas is provided.</td>
</tr>
<tr>
<td>A19 Design Detail</td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Refer Attachment 2.</td>
</tr>
<tr>
<td>A20 Front Fences</td>
<td>Encourage front fence design that respects the exiting or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Required: 1.2m  Proposed: The existing front fence is to be retained.</td>
</tr>
</tbody>
</table>
# Attachment 5
## Landscaping and Vegetation

### Decision Guidelines of the Vegetation Protection Overlay (Schedule 3)

<table>
<thead>
<tr>
<th>Decision Guideline</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>The impact the vegetation removal would have on the character of the area</strong></td>
<td>There are three native trees on the subject site, all of which are proposed for removal. The three trees proposed for removal are considered to have low retention values, as confirmed by Council arborist. Since the floor plans were amended, the applicant has not yet detailed the number of replacement tree plantings which will occur on site, however a condition requiring landscaping plans to the satisfaction of the Responsible Authority has been recommended and will require adequate replacement planting to occur.</td>
</tr>
<tr>
<td><strong>The impact the vegetation removal would have on the presence of indigenous species in the locality</strong></td>
<td>None of the trees proposed for removal are indigenous species. The condition recommending landscaping plans be submitted will also require a minimum of 80% indigenous species as part of the replacement planting. This is likely to result in a net gain in the amount of indigenous species on the subject site and in the area broadly.</td>
</tr>
<tr>
<td><strong>The impact the vegetation removal would have on the appearance of development.</strong></td>
<td>There is only one tree proposed for removal which is currently located in front of the existing dwelling. The remaining trees are located to the rear of the site. The vegetation removal is not likely to have a significant impact on the appearance of the development, or surrounding area particularly once the new trees (to be planted) mature. The recommended landscape plan condition will require a canopy tree be planted within the front setback of the site.</td>
</tr>
<tr>
<td><strong>The impact the vegetation removal would have on the habitat quality of any remaining vegetation and the fragmentation of wildlife corridors.</strong></td>
<td>There is no evidence to suggest the removal of trees 11 and 20 would impact on local fauna. Upon inspection of the site by Council’s arborist, a Common Ringtail Possum drey was spotted, however it is unclear as to whether or not this was being used. A condition has been recommended requiring the applicant to arrange for a suitable qualified wildlife management professional to determine if the drey is occupied prior to removal of this tree. If the drey is occupied, the applicant must provide a wildlife relocation method statement to the satisfaction of the responsible authority.</td>
</tr>
<tr>
<td><strong>Any proposal to regenerate or plant indigenous vegetation on the site.</strong></td>
<td>Since the applicant amended the floor plans, an updated landscape plan has not yet been provided. A condition has been recommended requiring the applicant to submit a new landscape plan to the satisfaction of the Responsible Authority. This condition will stipulate that at least 80% of the replacement vegetation must be indigenous and will also provide requirements on the</td>
</tr>
<tr>
<td>number of canopy trees to be planted within the front and rear setbacks.</td>
<td></td>
</tr>
</tbody>
</table>
## Tree profile

### Tree No. 4

<table>
<thead>
<tr>
<th>Botanical Name:</th>
<th>Leptospermum petersonii</th>
</tr>
</thead>
<tbody>
<tr>
<td>Common Name:</td>
<td>Lemon-scented Tea Tree</td>
</tr>
<tr>
<td>Height / Canopy:</td>
<td>~6 x 6 m</td>
</tr>
<tr>
<td>Trunk Circ.@1m:</td>
<td>~ 94 cm</td>
</tr>
<tr>
<td>Location 1</td>
<td>~4 m from East boundary</td>
</tr>
<tr>
<td>Location 2</td>
<td>~4 m from North boundary</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Origin:</th>
<th>Indigenous</th>
<th>Victorian</th>
<th>Australian</th>
<th>Exotic</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age:</td>
<td>Young</td>
<td>Semi-mature</td>
<td>Mature</td>
<td>Over-mature</td>
</tr>
<tr>
<td>Health:</td>
<td>Good</td>
<td>Fair</td>
<td>Poor</td>
<td>Dead</td>
</tr>
<tr>
<td>Structure:</td>
<td>Good</td>
<td>Fair</td>
<td>Poor</td>
<td>Hazardous</td>
</tr>
<tr>
<td>Amenity Value:</td>
<td>High</td>
<td>Moderate</td>
<td>Low</td>
<td>None</td>
</tr>
<tr>
<td>Life Expectancy:</td>
<td>20 years +</td>
<td>10-19 years</td>
<td>4-9 years</td>
<td>0 - 3 years</td>
</tr>
<tr>
<td>Retention Value:</td>
<td>High</td>
<td>Medium</td>
<td>Low</td>
<td>None</td>
</tr>
</tbody>
</table>

### Tree No. 11

<table>
<thead>
<tr>
<th>Botanical Name:</th>
<th>Archontophoenix cunninghamiana</th>
</tr>
</thead>
<tbody>
<tr>
<td>Common Name:</td>
<td>Bangalow Palm</td>
</tr>
<tr>
<td>Height / Canopy:</td>
<td>~6 x 4 m</td>
</tr>
<tr>
<td>Trunk Circ.@1m:</td>
<td>~ 62 cm</td>
</tr>
<tr>
<td>Location 1</td>
<td>~2 m from East boundary</td>
</tr>
<tr>
<td>Location 2</td>
<td>~10 m from South boundary</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Origin:</th>
<th>Indigenous</th>
<th>Victorian</th>
<th>Australian</th>
<th>Exotic</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age:</td>
<td>Young</td>
<td>Semi-mature</td>
<td>Mature</td>
<td>Over-mature</td>
</tr>
<tr>
<td>Health:</td>
<td>Good</td>
<td>Fair</td>
<td>Poor</td>
<td>Dead</td>
</tr>
<tr>
<td>Structure:</td>
<td>Good</td>
<td>Fair</td>
<td>Poor</td>
<td>Hazardous</td>
</tr>
<tr>
<td>Amenity Value:</td>
<td>High</td>
<td>Moderate</td>
<td>Low</td>
<td>None</td>
</tr>
<tr>
<td>Life Expectancy:</td>
<td>20 years +</td>
<td>10-19 years</td>
<td>4-9 years</td>
<td>0 - 3 years</td>
</tr>
<tr>
<td>Retention Value:</td>
<td>High</td>
<td>Medium</td>
<td>Low</td>
<td>None</td>
</tr>
</tbody>
</table>
Tree No. | 20
---|---
**Botanical Name:** | *Hymenosporum flavum*
**Common Name:** | Native Frangipani
**Height / Canopy:** | ~11 x 5 m
**Trunk Circ.@1m:** | ~ 57 cm
**Location 1:** | ~6 m from East boundary
**Location 2:** | ~1 m from South boundary

<table>
<thead>
<tr>
<th>Origin:</th>
<th>Indigenous</th>
<th>Victorian</th>
<th>Australian</th>
<th>Exotic</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age:</td>
<td>Young</td>
<td>Semi-mature</td>
<td>Mature</td>
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<tr>
<td>Health:</td>
<td>Good</td>
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<tr>
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<td>High</td>
<td>Moderate</td>
<td>Low</td>
<td>None</td>
</tr>
<tr>
<td>Life Expectancy:</td>
<td>20 years +</td>
<td><strong>10-19 years</strong></td>
<td>4-9 years</td>
<td>0 - 3 years</td>
</tr>
<tr>
<td>Retention Value:</td>
<td>High</td>
<td>Medium</td>
<td>Low</td>
<td>None</td>
</tr>
</tbody>
</table>

**Definitions**

The retention value of a tree considers the tree as a whole including its health, structure, amenity value and life expectancy. The criteria for high, medium and low retention value trees are:

**H** (High)

The tree is generally in good health and structure, provides high levels of amenity and is likely to do so for more than 20 years. The tree may have historic or cultural significance.

**M** (Medium)

The tree is generally in fair to good health and structure, provides moderate levels of amenity and is likely to do so for up to 20 years.

**L** (Low)

The tree is generally in fair health and structure, provides low levels of amenity and may do so for up to 10 years. The tree may be juvenile or otherwise small and easily replaced by advanced plantings or plantings that will provide similar amenity value in a reasonable timeframe.
1. **Purpose and background**

To report a planning permit application for the construction of two dwellings and alteration to a road in a Road Zone, Category 1 on a lot with an area of 723.13 square metres (refer Attachment 1) at 349 Nepean Highway, Brighton East (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Design Subdivide and Build</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>26 June 2017 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>26 August 2017</td>
</tr>
</tbody>
</table>

2. **Policy implications**

**Planning permit requirements**

Clause 32.09-5 (Neighbourhood Residential Zone Schedule 3) – Construction of two or more dwellings on a lot.

Clause 52.29 (Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road) – A permit is required to create or alter access to a road in a Road Zone, Category 1.

3. **Stakeholder Consultation**

**External referrals**

The application was referred to the following authorities:

<table>
<thead>
<tr>
<th>Referral Authority</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>VicRoads</td>
<td>No objection, given the application proposes to create vehicular access from Nepean Highway through a service road.</td>
</tr>
</tbody>
</table>

**Internal referrals**

The application was referred to the following Council departments for comment:

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Street Addressing</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Drainage Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
</tbody>
</table>

**Public notification**

The application was advertised pursuant to Sections 52(1)(a) and (d) of the *Planning and Environment Act 1987* and four objections were received. The following concerns were raised:

- Overlooking;
- Replacement of existing civil sewerage drain; and
• The planning application does not have consent from the original land owners of the site.

Consultation meeting

A consultation meeting was held on 26 July 2017 attended by the permit applicant, two owners and two objectors. As a result of this meeting no objections were withdrawn.

4. Recommendation

That Council:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2017/61/1 for the land known and described as 349 Nepean Highway, Brighton East, for the construction of two dwellings on a lot and alteration to a road in a Road Zone, Category 1 in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the decision plans, prepared by Design, Subdivide and Build and Council date stamped 26 June 2017, but modified to show:

   a) Provision of a dividing fence with a minimum height of 1.8 metres within the rear setback of the dwellings in accordance with the requirements of Standard B23 (Internal Views) of the Bayside Planning Scheme.

   b) Deletion of first floor north and south facing balconies to each dwelling and the windows to the retreat areas to incorporate appropriate screening in accordance with Standard B22 (Overlooking) of the Bayside Planning Scheme.

   c) Adequate sightlines to be demonstrated on the plans in accordance with the Design standards for car parking pursuant to Clause 52.06-8 (Car Parking) of the Bayside Planning Scheme.

   d) A minimum 3 metre wide garage door must be provided to each single garage.

   e) All pedestrian doors associated with each garage must be provided outwards from the garages.

   f) Water sensitive urban design measures in accordance with Condition 7 of this permit.

   g) Any consequential changes to the plans to comply with any conditions of this permit which must result in no increase in the built form and envelope. All to the satisfaction of the Responsible Authority.

2. The layout of the site and the size, design and location of buildings and works shown on the endorsed plans must not be modified for any reason (unless the Bayside Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.

3. Before occupation, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard B22 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.
4. Before the occupation of the site commences or by such later date as is approved in writing by the Responsible Authority, all buildings and works must be carried out and completed to the satisfaction of the Responsible Authority.

5. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.

6. All pipes (excluding downpipes), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

**Water Sensitive Urban Design**

7. Prior to the endorsement of plans pursuant to Condition 1, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must show:
   a) The type of water sensitive urban design stormwater treatment measures to be used.
   b) The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaped areas.
   c) Design details of the water sensitive urban design stormwater treatment measures, including cross sections.

These plans must be accompanied by a report from an industry accepted performance measurement tool which details the treatment performance achieved and demonstrates the level of compliance with the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999.

8. The water sensitive urban design stormwater treatment system as shown on the endorsed plans must be retained and maintained at all times in accordance with the Urban Stormwater - Best Practice Environmental Management Guidelines, CSIRO 1999, to the satisfaction of the Responsible Authority.

9. Before the occupation of the development starts, new or altered vehicle crossings servicing the development must be constructed to the satisfaction of the Responsible Authority and any existing disused or redundant crossing or crossing openings must be removed and replaced with footpath/nature strip/kerb and channel, to the satisfaction of the Responsible Authority.

**Landscaping**

10. Before the development starts, a revised landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by Sun ‘n’ Shade, dated 12/04/2017 and be drawn to scale with dimensions and three copies must be provided. The plan must show:
   a) A survey, including, botanical names of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009.
   b) A survey including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
   c) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
   d) Details of surface finishes of pathways and driveways.
11. Before the occupation of the development, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

12. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

**Drainage**

13. Before the development starts, the permit holder must apply to Council for the Legal Point of Discharge for the development from where stormwater is drained under gravity to the Council network.

14. Before the development starts, detailed plans indicating, but not limited to, the method of stormwater discharge to the nominated Legal Point of Discharge (and On Site Detention System where applicable) must be submitted to and approved by Council’s City Assets and Projects Department.

15. Any subsurface water captured on the site must be treated in accordance with Council's Policy for "Discharge of pumped Subterranean Water Associated with Basement or Below Ground Structures". Any seepage/agricultural drainage water must be filtered to rain water clarity and must be pumped to the nearest Council Drain/Pit and not be discharged to the kerb and channel unless directed otherwise.

16. The driveway / parking areas / paved courtyards / paths and 'pervious' pavements must be graded / drained to prevent stormwater discharge onto the front footpath and into adjacent properties.

**Development Contributions**

17. Prior to endorsement of the plan/s required under Condition 1 of this permit, the permit holder must pay a drainage levy in accordance with the amount specified under the Bayside Drainage Development Contributions Plan. The levy amount payable will be adjusted to include the Building Price Index applicable at the time of payment.

The levy payment shall be submitted to Council with the Bayside Drainage Contributions Levy Charge Sheet and it must include the Building Price Index applicable at the time of payment.

**Permit Expiry**

18. This permit will expire if one of the following circumstances applies:

   a) The development is not started within two years of the date of this permit.

   b) The development is not completed within four years of the date of this permit.

In accordance with Section 69 of the Planning and Environment Act 1987, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.

**Permit Notes**

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.

- Construction of any fence / wall / letterbox structures may necessitate removal / damage of some sections of footpath. If this is the case, a 'Road Opening Permit' must be obtained to facilitate such work.
• A ‘Road Opening / Stormwater Tapping Permit’ is to be obtained from the Infrastructure Department prior to the commencement of the connection to the Council Drain / kerb / channel.

• Council records indicate that there is a 1.83m wide drainage and sewerage easement along the eastern property boundary as indicated on the drawings provided. The plans indicate no proposals to encroach into the easement with any buildings or structures of note. Proposals to be built over the easement will require Build Over Easement consent from the Responsible Authority/Authorities.

5. Council Policy

Council Plan 2017-2021

Relevant strategies of the Council plan include:

• Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.

• Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.

Relevant strategies of the Council plan include:

• Make discretionary planning controls stronger, by advocating for Council’s planning and urban design objectives to state government.

Bayside Planning Scheme

• Clause 9 Plan Melbourne
• Clause 11 Settlement
• Clause 15 Built Environment and Heritage
• Clause 16 Housing
• Clause 21.02 Bayside Key Issues and Strategic Vision
• Clause 21.03 Settlement and Housing
• Clause 21.06 Built Environment and Heritage
• Clause 21.11 Local Areas
• Clause 22.06 Neighbourhood Character Policy (Precinct B5)
• Clause 22.08 Water Sensitive Urban Design
• Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
• Clause 43.02 Design and Development Overlay (Schedule 3)
• Clause 45.06 Development Contributions Plan Overlay (Schedule 1)
• Clause 52.06 Car Parking
• Clause 52.29 Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road
• Clause 55 Two or more dwellings on a lot
• Clause 65 Decision Guidelines
6. Considerations

In considering this application, regard has been given to the State and Local Planning Policy Frameworks, the provisions of the Bayside Planning Scheme, objections received and the individual merits of the application.

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct B5 and the proposal is considered to demonstrate an appropriate level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The proposed development includes the construction of two, double storey, side by side dwellings. The contemporary style dwellings feature a variety of rendered elements, timber cladding to create a visually interesting design response to the street.

The siting of the development is consistent with the existing and preferred character of the area through the provision of adequate boundary spacing and reasonable landscaping opportunities.

The proposed design response, through the use of varied materials and finishes and appropriate articulation will work to ensure the dwellings complement rather than overwhelm the streetscape context.

6.2. Compliance with Clause 55 (ResCode)

An assessment against the requirements of Clause 55 is provided at Attachment 4. Those non-compliant standards are discussed below:

Side and Rear Setbacks (Standard B17)

<table>
<thead>
<tr>
<th></th>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>North (side)</td>
<td>0m or 2m</td>
<td>2m</td>
</tr>
<tr>
<td>South (side)</td>
<td>0m or 2m</td>
<td>2m</td>
</tr>
<tr>
<td>East (rear)</td>
<td>0m or 3m</td>
<td>6m</td>
</tr>
</tbody>
</table>

As noted above, the proposed first floor north and south (side) setbacks seek a variation to the minimum setback requirements of Standard B17. In considering a variation, it is important to consider the objective of Clause 55.04-1 which seeks to ensure that the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

The proposed first floor north-western wall is located adjacent to the existing driveway and garage of 347 Nepean Highway while the remaining wall located opposite the secluded private open space of 2A Oxford Street, Brighton East.

The proposed wall directly opposite the driveway of 347 Nepean Highway associated with bedrooms 2, 3, the retreat and ensuites, seeks a variation to the required setbacks while the remaining wall opposite the open space of 2A Oxford Street is setback in accordance with the requirements.

Notwithstanding, a condition of permit is included requiring the deletion of the proposed north facing balcony associated with the retreat of Dwelling 2. This will alleviate the perception of visual bulk when viewed from the small area of open space to 2A Oxford
Street, consistent with the objective, while ensuring the level of articulation is maintained through appropriate fenestration and screening.

Similarly, the first floor southern wall seeks a variation to the minimum setback requirement where it is located opposite the existing driveway of 351 Nepean Highway. The southern property is currently used as a medical centre as demonstrated in Attachment 2 and in light of the commercial nature of the site, a variation can be supported as the proposal will not impact any sensitive areas.

**Internal Views (Standard B23)**

Standard B23 requires windows and balconies to be designed to prevent overlooking of more than 50 per cent of the secluded private open space of a lower level dwelling or residential building directly below and within a development.

At first floor level, the plans include the provision of a 1.7m high screening which will obscure direct views into the secluded private open space of each dwelling and therefore meets the requirements of Standard B23.

A condition of permit requires the provision of a 1.8 metre high dividing fence at ground floor level to meet the requirements of this standard.

**6.3. Car parking and traffic**

Pursuant to Clause 52.06 (Car parking), a dwelling requires car parking to be provided at a rate of 1 car space per one or two bedroom dwelling and 2 car spaces per three or more bedroom dwellings.

Each dwelling proposed is provided with 4 bedrooms and accordingly, two on site car parking spaces are required.

The proposal offers the provision of two on site car parking spaces to each dwelling in a tandem arrangement. Vehicle access to the site is via the existing vehicle crossover within the south western corner of the site.

Council’s Traffic Engineer has advised that the proposed car parking arrangement does not offer any on street parking and involves the loss of two on street car spaces. In addition, it was advised that the proposed arrangement may generate access difficulties for future occupants due to the nature of the single vehicle crossover for two dwellings.

Notwithstanding, Council’s Traffic Engineer did not object to the development subject to the inclusion of permit conditions relating to vehicle access, sightlines and internal parking dimensions. These are included as conditions of the permit.

Importantly, the proposed arrangement can be supported particularly in light of the small scale nature of the site and access, while not ideal, can be safely and suitably achieved.

In addition, VicRoads did not object to the application given access to the site from Nepean Highway is via a service road. No permit conditions were requested by VicRoads.

**6.4. Vegetation & Landscaping**

From an arboriculture perspective, Council’s Arborist has reviewed the application, visited the site and has raised no substantial concern with the proposed development.

The applicant has submitted a proposed landscape plan which has been supported by Council’s Arborist. The plan shows the provision of canopy planting within the front and rear setback of each dwelling, combined with generous landscaping in the front setback and side boundaries.

This outcome is consistent with the existing and preferred character of the area along with Council’s Landscape Guidelines for dual occupancy developments.

Council’s Arborist has confirmed that no tree protection planning for neighbouring
properties is required. Accordingly, no landscaping conditions are included in the associated recommendation.

6.5. **Objections received**

Issues raised by objectors that have not been addressed in the assessment above, are discussed below.

**Replacement of existing civil sewerage drain;**

A concern raised was the impact of the dwellings on infrastructure, particularly increased pressure on sewerage and drainage infrastructure. The owner will be required to address infrastructure servicing demands as required by the relevant service authorities towards the upgrade of existing infrastructure.

**The planning application does not have consent from the original land owners of the site;**

Council received an objection in relation to the ownership of the subject land. It was advised that the permit applicant does not have rightful ownership of the subject land and consequently the application is fraudulent. The most recent title search which was produced on 2 March 2017 confirms the transfer of ownership. The applicant declared that the current owners have been notified about this application (Attachment 5).

**Support Attachments**

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Assessment ↓
4. Clause 55 Assessment ↓
Item 4.8 – Matters of Decision

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ATTACHMENT 2
Site and Surrounds Imagery

Figure 1. Aerial overview of the site and surrounds

*Additional objections located outside of the above aerial image. Objections are in relation to the ownership of the land.

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>🌟</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>🔴</td>
</tr>
</tbody>
</table>
Figure 2. View of the existing conditions of the site (currently vacant).

Figure 3. Image of the adjoining property to the north of the site, known as 347 Nepean Highway, Brighton East.
Figure 4. Image of the adjoining southern property known as 351 Nepean Highway, Brighton East.
ATTACHMENT 3

Neighbourhood Character Policy (Precinct B5)

Preferred Future Character Statement

The area retains a predominance of pre WW2 dwellings, and in Meyer Crt, 1950s brick dwellings. The new pitched roof dwellings sit within established, largely exotic gardens and respect the older dwellings while not replicating these styles. Dwellings are well articulated in plan and elevation, use simple detailing and contain a variety of materials within the front façade. They are also low in scale and do not dominate the streetscape. Space for the planting of vegetation is provided in front yards by the provision of generous front and side setbacks and locating car ports and garages behind the line of the dwelling. Fences are open in style and appropriate to the era of the dwelling. In Meyer Crt front fences are not provided.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development.  
• Alterations and extensions should retain the front of these dwellings and be appropriate to the building era. | Demolition of dwellings that contribute to the valued character of the Precinct. | Responds  
The existing dwelling does not significantly contribute to the valued character of the area. |
| To maintain and enhance the garden settings of the dwellings. | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs. | Lack of landscaping and substantial vegetation. | Responds  
The siting of the development ensures appropriate landscaping opportunities, to maintain and enhance the garden setting of dwellings. |
| To provide adequate space for front gardens. | • Buildings should be sited to allow space for the planting of trees and shrubs. | Loss of front garden space. | Responds  
Sufficient landscaping opportunities are provided within the front setback of each dwelling. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To maintain the rhythm of spacious visual separation between buildings.</td>
<td>• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td></td>
<td>Responds Adequate boundary setbacks are provided to ensure the dwellings maintain the rhythm of spacious separate between buildings.</td>
</tr>
<tr>
<td>To minimise the loss of front garden spaces and the dominance of car parking structures.</td>
<td>• Locate garages and carports behind the line of the dwelling. • Provide only one single width driveway crossover per typical site frontage. • Minimise paving in front garden areas including driveways.</td>
<td>Car parking structures that dominate the façade or view of the dwelling. Front setbacks dominated by impervious surfaces.</td>
<td>Responds A single garage and tandem parking is provided to each dwelling and the remaining front setback offers landscaping opportunities to ensure car parking structure do not dominate the front façade.</td>
</tr>
<tr>
<td>To ensure that buildings and extensions do not visually dominate the streetscape.</td>
<td>• Recess upper level elements from the front façade.</td>
<td></td>
<td>Responds Appropriate front and side setbacks are incorporated into the overall design to ensure the proposed dwellings integrate appropriately with their context.</td>
</tr>
<tr>
<td>To encourage modern and contemporary architectural responses to surrounding dominant building forms.</td>
<td>• Adopt, adapt or re-interpret existing building forms (eg. Façade proportions and articulation, roof forms and plan forms) without copying period design details.</td>
<td>Reproduction of historic building styles.</td>
<td>Responds The dwellings feature a modern design response and detailing which will add visual interest to the street.</td>
</tr>
<tr>
<td>To respect the identified heritage qualities of adjoining buildings.</td>
<td>• Where adjoining an identified heritage building, respect the height, building forms, siting and materials of the heritage building/s in the new building design.</td>
<td>Buildings that dominate heritage buildings by height, siting or building massing.</td>
<td>N/A The site does not adjoin any heritage places.</td>
</tr>
<tr>
<td>To use a variety of building materials and finishes that reflect those in the streetscape.</td>
<td>• Incorporate a variety of building materials such as brick, render, timber and non-masonry into the building design. • Roof materials should generally be terracotta, red black or subdued coloured tiles or similar. • Use simple building details.</td>
<td>Exclusive use of one material on external wall surfaces. Period reproduction detailing.</td>
<td>Responds The dwellings feature a variety of materials reflective of the existing and emerging character of the area and consistent with the design response requirements of this objective.</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>----------------------------------------</td>
<td>----------------------------------------------------------------------------------</td>
<td>------------------------------------</td>
<td>----------------------------------------------------------</td>
</tr>
<tr>
<td>To maintain the openness of the streetscape.</td>
<td>• Provide open style front fences, other than along heavily trafficked roads.</td>
<td>High, solid front fencing.</td>
<td><strong>Responds</strong> A new 1.2 metre high timber fence is proposed which will complement the character of the dwellings, existing fencing featured throughout the immediate streetscape while maintain a level of permeability consistent with this objective.</td>
</tr>
</tbody>
</table>
### Attachment 4

#### ResCode Clause 55 (Two or More Dwellings on a Lot and Residential Buildings)

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer Attachment 3.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to services and facilities to support two dwellings.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>Any upgrades required will be the responsibility of the developer.</td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>The dwellings appropriately address the street and entries are clearly identifiable. While entrances are located to the side of the dwelling, a porch and decking clearly earmark the entries while low, permeable fencing ensures the dwellings integrate appropriately with the street.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>Yes</td>
<td>Minimum: 7.3mm</td>
</tr>
<tr>
<td>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient</td>
<td></td>
<td>Proposed: Dwelling 1: 7.8m</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------</td>
</tr>
<tr>
<td>B7 Building Height</td>
<td>Building height should respect the existing or preferred neighbourhood character</td>
<td>Yes</td>
</tr>
<tr>
<td>B8 Site Coverage</td>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td>Yes</td>
</tr>
<tr>
<td>B9 Permeability</td>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>Yes</td>
</tr>
<tr>
<td>B10 Energy Efficiency</td>
<td>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td>Yes</td>
</tr>
<tr>
<td>B11 Open Space</td>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td>N/A</td>
</tr>
<tr>
<td>B12 Safety</td>
<td>Layout to provide safety and security for residents and property.</td>
<td>Yes</td>
</tr>
<tr>
<td>B13 Landscaping</td>
<td>To provide appropriate landscaping. To encourage: Development that respects the landscape character of the neighbourhood. Development that maintains and enhances habitat for plants and animals in locations of habitat importance. The retention of mature</td>
<td>Yes</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------</td>
</tr>
<tr>
<td><strong>B14 Access</strong>&lt;br&gt;Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.</td>
<td>Yes</td>
<td>Appropriate vehicular access is provided. <strong>Maximum:</strong> 33% of street frontage <strong>Proposed:</strong> 18% of street frontage</td>
</tr>
<tr>
<td><strong>B15 Parking Location</strong>&lt;br&gt;Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.</td>
<td>Yes</td>
<td>The proposed car parking areas are appropriately located.</td>
</tr>
<tr>
<td><strong>B17 Side and Rear Setbacks</strong>&lt;br&gt;Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impact on existing dwellings.</td>
<td>No</td>
<td>Refer report and table below. Areas of non-compliance are underlined.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>North (side)</strong>&lt;br&gt;Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>0m or 2m</td>
<td>2m</td>
</tr>
<tr>
<td><strong>South (side)</strong>&lt;br&gt;Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>0m or 2m</td>
<td>2m</td>
</tr>
<tr>
<td><strong>East (rear)</strong>&lt;br&gt;Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>0m or 3m</td>
<td>6m</td>
</tr>
</tbody>
</table>

<p>| <strong>B18 Walls on Boundaries</strong>&lt;br&gt;Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings. | N/A | No boundary walls are proposed. |
| <strong>B19 Daylight to Existing Windows</strong>&lt;br&gt;Allow adequate daylight into existing habitable room windows. | Yes | The proposal is well setback from property boundaries to ensure daylight to existing windows is maintained. |
| <strong>B20 North Facing Windows</strong>&lt;br&gt;Allow adequate solar access | Yes | TPA106 indicates that the existing north facing habitable room windows of 351 Nepean Highway are located within 2.99 metres of the common |</p>
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B21 Overshadowing Open Space</strong></td>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td>Yes</td>
<td>Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 December.</td>
</tr>
<tr>
<td><strong>B22 Overlooking</strong></td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td>Yes</td>
<td>All proposed habitable room windows with views towards the adjoining secluded private open space areas have been screened in accordance with this requirement. The first floor south facing window to Bedroom 2 of Dwelling 1 has views towards the front setback of 351 Nepean Highway and as such no screening of this window is required.</td>
</tr>
<tr>
<td><strong>B23 Internal Views</strong></td>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
<td>No</td>
<td>Refer report. Screening in accordance with the requirements of this standard is provided as a condition of permit.</td>
</tr>
<tr>
<td><strong>B24 Noise Impacts</strong></td>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td>Yes</td>
<td>The development will not generate any noise above that typically expected from a residential building.</td>
</tr>
<tr>
<td><strong>B25 Accessibility</strong></td>
<td>Consider people with limited mobility in the design of developments.</td>
<td>Yes</td>
<td>Entries are easily accessible for people with limited mobility. The development could be retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td><strong>B26 Dwelling Entry</strong></td>
<td>Provide a sense of identity to each dwelling.</td>
<td>Yes</td>
<td>The entries to both dwellings are easily identifiable from the street.</td>
</tr>
<tr>
<td><strong>B27 Daylight to New Windows</strong></td>
<td>Allow adequate daylight into new habitable room windows.</td>
<td>Yes</td>
<td>All habitable windows have direct access to daylight.</td>
</tr>
</tbody>
</table>
| **B28 Private Open Space** | Provide reasonable recreation and service needs of residents by adequate provision. | Yes | **Minimum:** 25m² secluded, 40m² overall  
**Proposed:**  
Dwelling 1: 70m²  
Dwelling 2: 91m² |
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>B29 Solar Access to Open Space</td>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td>Yes</td>
<td>Appropriate solar access to the private open space areas is provided.</td>
</tr>
<tr>
<td>B30 Storage</td>
<td>Provide adequate storage facilities for each dwelling.</td>
<td>Yes</td>
<td>Each dwelling is afforded 6.8 cubic metres of storage within each garage.</td>
</tr>
<tr>
<td>B31 Design Detail</td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Refer report.</td>
</tr>
<tr>
<td>B32 Front Fences</td>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Required: 1.2m  Proposed: 1.2m</td>
</tr>
<tr>
<td>B33 Common Property</td>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>B34 Site Services</td>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td>Yes</td>
<td>Plans show clotheslines, mailboxes and storage areas as required. Space for meters has been provided alongside the entries of each dwelling.</td>
</tr>
</tbody>
</table>
4.9 3-5 THISTLE GROVE, HIGHETT
SUPPORT THE GRANT OF A PLANNING PERMIT
APPLICATION NO: 2016/679/1 WARD: CENTRAL

City Planning & Community Services - Statutory Planning
File No: PSF/15/8755 – Doc No: DOC/17/224373

1. Purpose and background

To report an in-principle agreement reached by all parties based on discussion of the submitted ‘Without Prejudice Plans’ for the construction of a three-storey building containing 26 dwellings and basement car parking on two lots with a combined area of 1,817 square metres at 3-5 Thistle Grove, Highett.

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Ratio Planning Consultants</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>5 October 2017</td>
</tr>
</tbody>
</table>

At the Planning and Amenity Committee Meeting held on 18 May 2017 Council considered an application for the construction of a three-storey building containing 26 dwellings and basement car parking.

Council determined to approve the proposal subject to conditions and in particular the inclusion of two additional conditions at their request, being Conditions 1m) and 1o):

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the advertised plans (Moull Murray Architects, Dwg no TP.03.01 to TP.09.07, dated 30 November 2016) but modified to show:

a) A reduction in the number of dwellings and the dwelling mix through the combination of proposed units 201 & 209 to form one three bedroom dwelling and dwellings 101 & 109 altered so that they each form one bedroom dwellings. The floor layouts shall be generally re-aligned to provide a greater area for a greater floorplate for Dwelling 109 and a lesser floorplate for Dwelling 101. All dwellings renumbered and the car parking spaces for each lot accordingly shown as per the renumbering.

b) The dwellings Private Open Space must be shown to meet the Private Open Space standards of B28 for both secluded private open space and total open space per dwelling.

c) The deletion of the front fence to the front communal yard and all ground floor communal boundary fences between dwellings to have a height of 1.8 metres.

d) All upper level bathrooms, ensuites, toilets and study/nooks to have provisions for a skylight (or similar) where direct daylight access is not provided. High light windows to the bathrooms of Dwellings 102, 107, 202 & 207. This does not apply where rooftop plant equipment inhibits this ability.

e) The window widths associated with all habitable room windows to have a minimum dimension of 1.2 metres.

f) The sides of the balconies to Dwellings 107 & 207 made open to the air above 1m from finished floor level. The openings shall be of the ratio 2h:1w (where h = height and w = width).
g) Each dwelling to have provisions for 6 cubic metres of externally accessible storage to comply with Standard B30 – Storage.

h) Clotheslines for each ground floor dwelling in accordance with Standard B34.

i) Adequate sight lines shown where the driveway intersects with the front footpath as per the diagram shown in AS2890.1. All structures within the sight triangle must be limited to a maximum height of 0.9m or kept clear.

j) Columns along the northern side of the basement designed in accordance with Diagram 1 of Clause 52.06 of the Planning Scheme.

k) A schedule of construction materials, external finishes and colours (incorporating for example paint samples), including for screens provided on the balconies and roof of the building.

l) Location of all plant and equipment, including hot water services and air conditioners etc. shown as being hidden from all street views. Plant equipment is to be located away from habitable room windows of dwellings and the adjoining properties habitable rooms. The plant screen on the roof shall be reduced so that it is no higher than 1200mm above roof level, unless a higher screen is required to screen a particular item of plant.

m) Any other changes required to the plans to comply with all conditions of this permit.

n) **Compliance to be achieved with Standard B6 of Clause 55.05-4 of the Bayside Planning Scheme.**

o) **Compliance to be achieved with Standard B17 of Clause 55.05-4 of the Bayside Planning Scheme.**

All to the satisfaction of the Responsible Authority.

The applicant has lodged an appeal under Section 80 of the Planning and Environment Act 1987 with the Victorian Civil and Administrative Tribunal (VCAT) to review Council’s Planning Permit Conditions 1n) and 1o).

The Tribunal’s Order directs the Applicant to serve documents on objectors and referral authorities no later than 24 August 2017 and the closing date for objectors and referral authorities to lodged statement of grounds with VCAT and serve on applicant and responsible authority is 14 September 2017. The Statement of Services at the Attachment 4 confirms the current parties of this proceeding is only between Council and the permit applicant which means the original objectors have not lodged Statement of Grounds to the Tribunal.

The applicant then submitted a set of ‘Without Prejudice’ amended plans to Council for discussion on 5 October 2017. An in-principle agreement was reached between all parties to discharge the Condition 1n) and 1o) from the Permit.

The ‘Without Prejudice Plans’ are provided at Attachment 1 and were used to assist with discussion and in forming the recommendation outlined in Section 4 of this report. These plans have not been formally substituted.

If Council agrees to support the recommendation below then a Consent Order will be sought to VCAT which contains, unchanged, all of the conditions contained in the recommendation of this report. The set merits hearing as listed on 23 January 2018 will be vacated.

The original development plans refused by Council are included at Attachment 2.

Alternatively, should Council determine to not support the Consent Order, then the application will proceed to a VCAT merits hearing on 23 January 2018 based on the original application plans.
2. **Policy implications**

**Planning permit requirements**

Clause 32.08-6 (General Residential Zone) – Construction of two or more dwellings on a lot.

3. **Stakeholder Consultation**

**External referrals**

There were no external referrals required to be made in accordance with Clause 66 of the Bayside Planning Scheme.

**Internal referrals**

The application was referred to the following Council departments for comment:

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>No objection, subject to conditions</td>
</tr>
<tr>
<td>Drainage Engineer</td>
<td>No objection, subject to conditions</td>
</tr>
<tr>
<td>Street Tree Arborist</td>
<td>No objection, subject to conditions</td>
</tr>
<tr>
<td>Waste Management</td>
<td>No objection, subject to conditions</td>
</tr>
</tbody>
</table>

**Public notification**

The original application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and 20 objections were received. The following concerns were raised:

- Parking congestion and traffic safety issues.
- Three storey development is out-of-character with the remainder of the street.
- Property devaluation.
- Overlooking.
- Overshadowing.
- General noise.
- Waste Management.
- Construction Management Issues.

A letter was also received from VicTrack in regards to the proposal, who did not object to the proposal provided certain conditions were added to any permit issued. The VicTrack conditions have been incorporated into the recommendation.

**Consultation meeting**

A consultation meeting was not arranged for this VCAT matter as the objectors have not joined as a party to this VCAT proceeding.

4. **Recommendation**

That Council:

Determines to **Support** the application under the provisions of the Bayside Planning Scheme in respect of **Planning application 2016/671/1** for the land known and described as **3-5 Thistle Grove, Highett**, for the **construction of a three storey residential building and a basement on two lots** in accordance with the endorsed
plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the advertised plans (Moull Murray Architects, Dwg no TP.03.01 to TP.09.07, revision A, dated 4.10.17) but modified to show:

   a) **Deleted.**
   b) The dwellings Private Open Space must be shown to meet the Private Open Space standards of B28 for both secluded private open space and total open space per dwelling.
   c) The deletion of the front fence to the front communal yard and all ground floor communal boundary fences between dwellings to have a height of 1.8 metres.
   d) All upper level bathrooms, ensuites, toilets and study/nooks to have provisions for a skylight (or similar) where direct daylight access is not provided. High light windows to the bathrooms of Dwellings 102, 107, 202 & 207. This does not apply where rooftop plant equipment inhibits this ability.
   e) The window widths associated with all habitable room windows to have a minimum dimension of 1.2 metres.
   f) The sides of the balconies to Dwellings 107 & 207 made open to the air above 1m from finished floor level. The openings shall be of the ratio 2h:1w (where \( h = \text{height} \) and \( w = \text{width} \)).
   g) Each dwelling to have provisions for 6 cubic metres of externally accessible storage to comply with Standard B30 – Storage.
   h) Clotheslines for each ground floor dwelling in accordance with Standard B34.
   i) Adequate sight lines shown where the driveway intersects with the front footpath as per the diagram shown in AS2890.1. All structures within the sight triangle must be limited to a maximum height of 0.9m or kept clear.
   j) Columns along the northern side of the basement designed in accordance with Diagram 1 of Clause 52.06 of the Planning Scheme.
   k) A schedule of construction materials, external finishes and colours (incorporating for example paint samples), including for screens provided on the balconies and roof of the building.
   l) Location of all plant and equipment, including hot water services and air conditioners etc. shown as being hidden from all street views. Plant equipment is to be located away from habitable room windows of dwellings and the adjoining properties habitable rooms. The plant screen on the roof shall be reduced so that it is no higher than 1200mm above roof level, unless a higher screen is required to screen a particular item of plant.
   m) Any other changes required to the plans to comply with all conditions of this permit.
   n) **Deleted.**
   o) **Deleted.**
p) **West elevation to be revised to demonstrate compliance with Standard B22 of Clause 55.04-6, Overlooking of the Bayside Planning Scheme.**

All to the satisfaction of the Responsible Authority.

2. Prior to the endorsement of plans pursuant to Condition 1, a Waste Management Plan must be submitted to and approved by the Responsible Authority. The Waste Management Plan must clearly indicate that waste collection is to be via a private contractor, not Council, and include:

   a) Dimensions of storage waste areas.
   b) Storm water drains in storage areas should be fitted with a litter trap.
   c) The number and size of bins to be provided.
   d) Facilities for bin cleaning.
   e) Method of waste and recyclables collection.
   f) Types of waste for collection, including colour coding and labelling of bins.
   g) Hours of waste and recyclables collection (to correspond with Council Local Laws and EPA Noise Guidelines). Waste collection must not take place between 6am-10am and 3pm-7pm on weekdays.
   h) Method of hard waste collection.
   i) Method of presentation of bins for waste collection.
   j) Sufficient headroom within the basement to accommodate waste collection vehicles.
   k) Sufficient turning circles for the waste collection vehicles to enter and exit the site in a forward direction. Waste collection shall be by a 6.4m rear mini loader.
   l) Strategies for how the generation of waste and recyclables will be minimised.
   m) Compliance with relevant policy, legislation and guidelines.

When approved, the plan will be endorsed and will then form part of the permit. Waste collection from the development must be in accordance with the plan, to the satisfaction of the Responsible Authority.

3. Prior to the endorsement of plans pursuant to Condition 1, detailed WSUD plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must show:

   a) The type of water sensitive urban design (WSUD) stormwater treatment measures to be used.
   b) The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaped areas.
   c) Design details of the water sensitive urban design stormwater treatment measures, including cross sections.

These plans must be accompanied by a report from an industry accepted performance measurement tool which details the treatment performance achieved and demonstrates the level of compliance with the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999.

4. Prior to the endorsement of plans pursuant to Condition 1, a revised landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance
with the advertised plan prepared by Wallbrink Architecture, dwg no 1875TP1, Issue B, drawn to scale with dimensions and three copies must be provided. The plan must show:

a) A survey, including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.

b) A planting schedule of any proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant. The plan shall include provision of a tree capable of reaching 10m in height at maturity in the general vicinity and in place of the four manna gums shown on the advertised landscape plan. It shall also include dense screen planting along rail corridor interface to assist in noise mitigation.

c) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.

d) Details of surface finishes of pathways and driveways.

5. Prior to the endorsement of plans pursuant to Condition 1, including any related demolition or removal of vegetation, a Tree Management Plan (report) and Tree Protection Plan (drawing), to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority.

The Tree Management Plan must be specific to the trees shown on the Tree Protection Plan, in accordance with AS4970-2009, prepared by a suitably qualified arborist and provide details of tree protection measures that will be utilised to ensure all trees to be retained remain viable post-construction. Stages of development at which inspections are required to ensure tree protection measures are adhered to must be specified.

The Tree Protection Plan must be in accordance with AS4970-2009, be drawn to scale and provide details of:

a) The Tree Protection Zone and Structural Root Zone for all trees to be retained on the site and for all trees on neighbouring properties where any part of the Tree Protection Zone falls within the subject site.

b) The location of tree protection measures to be utilised.

6. Prior to the endorsement of plans pursuant to Condition 1, a parking management plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. Parking operations on the site must conform to this endorsed plan. Three copies of the plan must be submitted. The plan must include:

a) Allocation of parking to individual properties and to visitors.

b) Signing of parking spaces.

c) Line marking of parking spaces.

d) Proposed access control measures such as gates, roller doors, intercoms, etc.

7. Prior to the endorsement of plans pursuant to Condition 1, an acoustic report must be submitted to and approved by the Responsible Authority to demonstrate how the dwellings will be acoustically treated to minimise noise transmission from the adjacent land uses to the satisfaction of the Responsible Authority. This shall address, amongst other items, treatment to secluded private open space areas (at all levels), windows to habitable rooms and acoustic fencing.
8. All protection measures identified in the Tree Management and Protection Plans must be implemented, and development works undertaken on the land must be undertaken in accordance with the Tree Management and Protection Plans, to the satisfaction of the Responsible Authority.

9. Before the development starts, including demolition or removal of vegetation, the name and contact details of the project arborist responsible for implementing the Tree Management Plan must be submitted to the Responsible Authority.

10. Before the development starts, the permit holder must apply to Council for the Legal Point of Discharge for the development from where stormwater is drained under gravity to the Council network.

11. Before the development, detailed plans indicating, but not limited to, the method of stormwater discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council’s Infrastructure Assets Department.

12. Before the development starts, a Construction Management Plan (CMP), to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit and shall thereafter be complied with. The CMP must specify and deal with, but not be limited to the following as applicable:

   a) A detailed schedule of works including a full project timing.
   b) A traffic management plan for the site, including when or whether any access points would be required to be blocked, an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services, preferred routes for trucks delivering to the site, queuing/sequencing, excavation and swept-path diagrams.
   c) The location for the parking of all construction vehicles and construction worker vehicles during construction.
   d) Delivery of materials including times for loading/unloading, unloading points, expected frequency and details of where materials will be stored and how concrete pours would be managed.
   e) Proposed traffic management signage indicating any inconvenience generated by construction.
   f) Fully detailed plan indicating where construction hoardings would be located.
   g) A waste management plan including the containment of waste on site: disposal of waste, stormwater treatment and on-site facilities for vehicle washing.
   h) Containment of dust, dirt and mud within the site and method and frequency of clean up procedures in the event of build-up of matter outside the site.
   i) Site security.
   j) Public safety measures.
   k) Construction times, noise and vibration controls.
   l) Restoration of any Council assets removed and/or damaged during construction.
   m) Protection works necessary to road and other infrastructure (limited to an area reasonable proximate to the site).
n) Remediation of any damage to road and other infrastructure (limited to an area reasonably proximate to the site).

o) An emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experience.


q) All contractors associated with the construction of the development must be made aware of the requirements of the Construction Management Plan.

r) Details of crane activities, if any.

13. Before the occupation of the development starts, new or altered vehicle crossing(s) servicing the development must be constructed to the satisfaction of the Responsible Authority and any existing disused or redundant crossing or crossing opening must be removed and replaced with footpath/nature strip/kerb and channel, to the satisfaction of the Responsible Authority. The area(s) set aside for vehicle parking and accessways must be constructed, drained and line marked to the satisfaction of the Responsible Authority. Such areas must be kept available for these purposes at all times.

14. Before a Certificate of Occupancy is issued by a Building Surveyor, or by any other date as is approved in writing by the Responsible Authority, all buildings and works including all landscaping must be carried out and completed to the satisfaction of the Responsible Authority.

15. Once completed, the layout of the site and the size, levels, design and location of buildings and works, screens, boundaries, fixtures and services shown on the endorsed plans must not be modified for any reason (unless the Bayside Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.

16. The water sensitive urban design stormwater treatment system as shown on the endorsed plans must be retained and maintained at all times in accordance with the Urban Stormwater - Best Practice Environmental Management Guidelines, CSIRO 1999, to the satisfaction of the Responsible Authority.

17. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.

18. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including any dead, diseased or damaged plants are to be replaced.

VicTrack Conditions – not to be altered

19. The permit holder must not enter any railway land without the written consent of the Rail Operator. If the permit holder has obtained the Rail Operator’s written consent to enter the railway land, the permit holder must comply with the Rail Operator’s Site Access Procedures and Conditions when accessing the railway land.

20. Before the commencement of the development, including demolition or bulk excavation, the permit holder must contact the Rail Operator through the email address metrosse"siteaccess@metrotrains.com.au to obtain the Rail Operator’s conditions and safety requirements for works on, over or adjacent to the railway
land. The permit holder must comply with the Rail Operator’s reasonable requirements for works on, over or adjacent to the railway land.

21. Prior to the commencement of works, including demolition and bulk excavation, the permit holder must enter into all necessary construction control and indemnity agreements as required by the Rail Operator.

22. The permit holder must not, at any time, interfere with or damage any railway infrastructure (including without limitation overhead power and supporting infrastructure for trains and trams, and underground telecommunication cables). The permit holder must, at its own cost, rectify any damage to railway infrastructure, or disruption to the rail operations, arising out of or in connection with the development to the satisfaction of VicTrack and the Rail Operator within fourteen (14) days of such damage or disruption occurring or such other time agreed by VicTrack and the Rail Operator.

23. During the construction of the development, including demolition and bulk excavation, the permit holder must:
   a) take all reasonable steps to avoid disruptions to rail operations; and
   b) comply with:
      i. the Rail Operator’s safety and environmental requirements; and
      ii. the requirements of any construction control and indemnity agreement it has entered into with the Rail Operator.

24. The permit holder must, at all times, ensure that the common boundary with the railway land is fenced at the permit holder’s expense to prohibit unauthorised access to the rail corridor.

25. The permit holder must not, at any time:
   a) allow any drainage, effluent, waste, soil or other materials to enter or be directed to the railway land; or
   b) store or deposit any waste, soil or other materials on the railway land.

26. Any wall to be built on the common boundary between the subject land and the VicTrack land must be cleaned and finished using a graffiti proof finish at the cost of the permit holder. VicTrack, in consultation with the Rail Operator, may nominate alternative measures to be implemented, at the cost of the permit holder, to prevent or reduce the potential for graffiti. Any graffiti that appears on the wall must be cleaned or removed as soon as practicable to the satisfaction of the Responsible Authority. The cost of any clean-up or removal of the graffiti from the wall must be borne by the permit holder and/or the future owners of the land.

27. The permit holder must not carry out, or allow to be carried out, any excavation, filling or construction on the common boundary between the subject land and the railway land unless it has obtained the prior written approval of VicTrack and the Rail Operator.

28. All works, including hoardings, must be undertaken within the subject land and must not encroach onto the railway land.

29. The permit holder must not at any time erect lighting (permanent or temporary) that spills light onto the railway tracks or which interferes with the visibility of signals and rail lines by train drivers.

30. The permit holder must not plant any plants or tree species that are likely to cause any future overhang onto the railway land or disturbance to the railway operations.
31. The permit holder must not install, or cause to be installed, any permanent or temporary ground anchors within the railway land.

Secondary Consent

32. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

Permit Expiry

33. This permit will expire if one of the following circumstances applies:
   a) The development is not started within two years of the date of this permit; or
   b) The development is not completed within four years of the date of this permit.

In accordance with Section 69 of the Planning and Environment Act 1987, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.

Permit Notes

- This permit provides planning consent only and does not provide any other consent for building, asset protections, engineering, Referral Authority easement or any other type of consent not otherwise expressly granted.
- Occupants and their visitors will not be eligible for Council on-street parking permits.
- Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.
- Any walls constructed on or near the railway boundary will need to comply with the necessary Australian Standards, including the requirements for crash protection measures under AS5100.
- Building Design and Construction works are to comply with Victorian Safety (Installations) Regulations 2009 Part 3 Division 2.

5. Council Policy

Council Plan 2017-2021

Relevant strategies of the Council plan include:

- Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.
- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.
- Where a range of housing types is provided to accommodate the changing needs of the community, enabling people to age in place and providing opportunities for young adults and families to live and remain in the municipality.

Relevant strategies of the Council plan include:

- Make discretionary planning controls stronger, by advocating for Council’s planning and urban design objectives to state government.

Bayside Planning Scheme
6. Considerations

In considering this application, regard has been given to the State and Local Planning Policy Frameworks, the provisions of the Bayside Planning Scheme, objections received and the individual merits of the application.

6.1. Amended Plans Assessment

This report will detail how the amended plans at Attachment 1 respond to Conditions 1n) and 1o) of the Notice of Decision.

Condition 1n)

Compliance to be achieved with Standard B6 of Clause 55.05-4 of the Bayside Planning Scheme.

The Committee Report on 18 May 2017 states the required minimum front setback is 6m given the DDO5 varies the Standard B6 front setback requirement. The amended plan submitted to Council has tweaked the build form in relation to south elevation. The amended front setback generally complies with the requirement excluding the following variations:

- Corner of the living of Apartment G07 protrudes the front setback by 850mm;
- First floor and second floor front setback is 5.78m which seeks a variation of 120mm; and
The corners of living room of Apartments 107 and 206 protrude the front setback by approximately 1m.

The amended plans respond to the Street Setback objective and will respect the neighbourhood character for the following reasons:

- The proposed front setback at the ground floor complies with the objective and respects the character of the neighbourhood.
- The proposed first and second floor front setback variation of 120mm is marginal and will not impact on the existing streetscape character unreasonably.
- The protruding corner sections of first and second floor are minor aspects of the proposal and provide articulation and visual interest of the façade which assist in minimising the streetscape impacts.
- The site is located at the end of the street which is surrounded by residential buildings to the west and a railway line to the east. The proposed variation of the front setback will offer less streetscape impacts when viewed from the west given the front setback at 1 Thistle Grove is 4.9m.

Overall, the proposal achieves the objective of Standard B6. Importantly, the proposal provides a setback respectful of the existing housing stock in the street, contributes to a preferred setback for this street and the broader Highett neighbourhood and provides a landscaped outcome that will improve the landscape setting of this site and the street. It is noted that some minor changes have occurred to the frontage to reduce and remove fencing to improve the pedestrian experience in the street and provide a more inviting built form. On this basis, the minor variations sought are considered acceptable and the proposal achieves the outcome the Committee sought in May 2017.

**Condition 1o)**

**Compliance to be achieved with Standard B17 of Clause 55.05-4 of the Bayside Planning Scheme.**

<table>
<thead>
<tr>
<th>Elevation</th>
<th>Standard B17 Requirements</th>
<th>Setbacks on Decision Plans</th>
<th>Setbacks on Amended Plans</th>
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<tbody>
<tr>
<td>East (side)</td>
<td>GF: 2m</td>
<td>2m</td>
<td>2m – 7.25m</td>
</tr>
<tr>
<td></td>
<td>FF: 3.44m</td>
<td>1m – 4.9m</td>
<td>1m - 4.5m</td>
</tr>
<tr>
<td></td>
<td>SF: 8.78m</td>
<td>1m – 4.9m</td>
<td>1m – 7.275m</td>
</tr>
<tr>
<td>West (side)</td>
<td>GF: 2m</td>
<td>3.68m - 5m</td>
<td>5m - 9.55m</td>
</tr>
<tr>
<td></td>
<td>FF: 4.18m</td>
<td>3.65m – 8m</td>
<td>5m – 7.75m</td>
</tr>
<tr>
<td></td>
<td>SF: 10.18m</td>
<td>3.65 – 8.15m</td>
<td>8.85m – 9.85m</td>
</tr>
</tbody>
</table>

The amended plan shows full compliance for the Ground Floor east setbacks. The majority of the proposed First Floor setbacks comply with the requirements except the Apartments 102 and 107. The proposed Second Floor east wall protrudes the required setback which does not comply with the Condition 1o).

It is also acknowledged that the east side setback has not been amended to achieve full compliance in some instances however these encroachments do not compromise the amenity given it faces to a railway line which is a non-sensitive interface. The setbacks to this interface can be more robust given development along the rail corridor is much closer to take advantage of this non-sensitive interface. The variations sought here are considered appropriate. It should be noted that the internal amenity of these dwellings is appropriate and not compromised as a result of being adjacent to the rail corridor.

On the west elevation, the setbacks have been increased significantly as follows:
• Ground Floor: minimum setback increased from 3.68m to 5.0m achieves full compliance with Standard B17 and Condition 1o).
• First Floor: minimum setback increased from 3.68m to 5m achieves full compliance with Standard B17 and Condition 1o).
• Second Floor: minimum setback increased from 3.68m to 8.55m and the setback of Apartment 207 has been increased to 9.85m.

The proposal is a significant improvement from the decisions plans. It is acknowledged that the proposed variations are still a departure from the standard requirements for the section of the second floor only, however as mentioned in the VCAT decision on the previous application, the decision acknowledged the interface with the adjacent properties is not particularly sensitive, given that there is little private open space or habitable room windows along that site’s eastern elevation and therefore the proposed reduction in the side and rear setbacks is not assessed as having a demonstrable harm on the adjacent properties. Therefore, Officers believed the variation at the Second Floor is acceptable and will not impact on the amenity of adjoining properties unreasonably.

New Issue raised by the Without Prejudice Plans

The redesigned west elevation results in revision of a number of new balconies at the first floor and second floor. The applicant provided Section Plans to demonstrate the compliance of the Overlooking objective of the Bayside Planning Scheme. However the proposed slight line is measured at 1.6m from the finished floor level which does not meet the screening standard, therefore a condition will be added to request all the slight lines are amended to 1.7m measured from the finished floor to demonstrate compliance with Clause 55.04-6, Overlooking Objective.

7.0 Conclusion

Whilst it could not be stated that each and every part of Condition 1n) and 1o) has been satisfied, the applicant has sought to address the core issues of these two conditions and an improved design response have been provided. It is also noted none of the original objectors have decided to join as a party to the VCAT proceeding, but the amended plans address the interface with the sensitive residential properties even though the objectors did not raise these in their concerns listed above.

Support Attachments
1. Without Prejudice Plans ↓
2. Decision Plans ↓
3. Site and Surround Imagery ↓
4. List of Parties to VCAT ↓
Item 4.9 – Matters of Decision
Item 4.9 – Matters of Decision

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Item 4.9 – Matters of Decision

Bayside City Council
Planning & Amenity Committee Meeting - 2 November 2017
Attachment 1

Design and Context Response
Site Analysis

KEY
5 Subject site
1 Adjacent private open space
2 Adjacent common private open space
3 Existing Street Neighbouring trees
4 Existing Single Storey (1 Storey) Brick
5 Existing Single Storey (1 Storey) Weatherboard Dwelling
6 Existing Double Storey (2 Storey) Apartment/ Townhouse
7 Existing Crossover

TP.01.05
Real Estate Concepts

Proposed Apartment Building
3-5 Thistle Grove, Highett

Design and Context Response
Site Analysis

MIMA
Maul Murf Architects
102 Dandenong Rd, Highett
03 9541 2288

NEIGHBOURHOOD CHARACTER
AREA
The local area consists of mainly residential buildings along Thistle Grove, predominantly single and double storey dwellings and units. The street does not include any heritage listed dwellings.

The site is located close to Highett Commercial Centre and train station. The CSIRO site is a large industrial development which will change the prevailing nature of the scale residential buildings adjacent to a high density residential precinct.

FENCING STYLES
Various height fences along Thistle Grove: mixture of brick, timber pickets, palings and stone on streetscape.

GARDEN STYLES
No predominant style prevails. Trees in garden settings and native shrubs, exotic and native.

BUILDING TYPE
Predominantly residential buildings on Thistle Grove.

BUILDING HEIGHT
Predominantly single-storey houses and units along Thistle Grove. Western end of Thistle Grove consists of double-storey apartment / townhouses.

BUILDING STYLE
Mixed Styles

ROOF FORMS
Predominantly pitch roofs along Thistle Grove.

ROOF MATERIALS
Mixture of metal and metal sheet.

WALL CLADDING
Mixed - Painted render and face brick.
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Item 4.9 – Matters of Decision
Item 4.9 – Matters of Decision
Item 4.9 – Matters of Decision
Item 4.9 – Matters of Decision
### Area Schedule

<table>
<thead>
<tr>
<th>External Area</th>
<th>Unit Number</th>
<th>Catalog</th>
<th>Level</th>
<th>Area (m²)</th>
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</tr>
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</tr>
</tbody>
</table>

### Apartment Types

<table>
<thead>
<tr>
<th>No.</th>
<th>1 Bedroom</th>
<th>2 Bedrooms</th>
<th>3 Bedrooms</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>01</td>
<td>03</td>
<td>20</td>
<td>01</td>
<td>24</td>
</tr>
</tbody>
</table>

**Total Area:** 1,907 m²
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Item 4.9 – Matters of Decision
<table>
<thead>
<tr>
<th>Internal Area</th>
<th>Zone Number</th>
<th>Area Type</th>
<th>Location</th>
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</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>

![Advertised Plan](image-url)

Item 4.9 – Matters of Decision
Item 4.9 – Matters of Decision
Item 4.9 – Matters of Decision
6 objections have been received from 6 Thistle Grove.

8 objections have been received from the apartment block at 2 Thistle Grove.

N.B. 2 objectors are not shown on this map.
Figure 2 View towards the site from the southeast

Figure 3 View towards the site from the southwest
Figure 4 View towards of the boundary between 1 & 3 Thistle Grove

Figure 5 View of the boundary between 1 & 3 Thistle Grove
Mailing List relating to P1612/2017.

blanchem@ratio.com.au
Ratio Consultants Pty Ltd
9 Clifton Street
RICHMOND VIC 3121

vcat@bayside.vic.gov.au, zxi@bayside.vic.gov.au
Bayside City Council
Planning Department
PO Box 27
SANDRINGHAM VIC 3191
1. Purpose and background

To report an in-principle agreement following the refusal of this application under delegation which involves retrospective approval for an extension to a roof deck above the second storey of the existing dwelling in a Design and Development Overlay Schedule 1 (refer Attachment 4) at 25 Glyndon Avenue, Brighton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Mario Paul Salvo c/- Norton Rose Fulbright</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>28 September 2016</td>
</tr>
</tbody>
</table>

It is noted there is an existing roof deck above the existing two storey dwelling and works in association with a refurbishment of the existing roof deck have commenced.

Following a review of the application plans, Council's delegate determined to refuse an application for retrospective approval for an extension to a roof deck above the second storey of the existing dwelling in a Design and Development Overlay Schedule 1 on 11 January 2017.

The refusal was based on Council’s assessment that the proposed works failed to meet the roof deck permit requirements of Clause 43.02 (Design and Development Overlay) of the Bayside Planning Scheme on the following grounds:

1. The proposal fails to meet the roof deck permit requirements of Clause 43.02 (Design and Development Overlay Schedule 1) of the Bayside Planning Scheme, on the following grounds:
   a) The proposal fails to achieve a minimum 2 metre setback from the roof edge of the existing dwelling immediately below on all sides;
   b) The proposed structures exceed a height of 1.7 metres;
2. The proposal encloses usable floor space and exceeds the maximum height of 2.4 metres.
3. The proposal exceeds the two storey requirement of Clause 43.02 (Design and Development Overlay Schedule 1) and is consequently prohibited under the permit requirements of Clause 43.02 (Design and Development Overlay Schedule 1) of the Bayside Planning Scheme.

The applicant lodged an appeal pursuant to Section 77 of the Planning and Environment Act 1987 with the Victorian Civil and Administrative Tribunal (VCAT) against Council’s decision to refuse to grant a planning permit.

Since receipt of the refusal, the Applicant and Council representatives have been in discussion to work through the issues in order to reach a settlement. In light of the progress made between the Applicant and Council, the Applicant for Review submitted a second request for an adjournment of the scheduled 20 October 2017 Hearing to continue these negotiations. This request was subsequently refused by the Tribunal.

Notwithstanding, positive negotiations were made on the morning of the Hearing which confirmed a number of agreed changes in order to reach an in-principle support from Council.

At the commencement of the Hearing on 20 October 2017, the parties informed the
Bayside City Council
Planning & Amenity Committee Meeting - 2 November 2017

Tribunal that they had arrived at a consent position subject to ratification by Council. The hearing was attended by the permit applicant and Council representatives.

The outcome was that an in-principle agreement was reached and that the applicant would prepare amended plans and submit to the Responsible Authority by 25 October 2017 generally in accordance with the plan listed in Attachment 3.

The Tribunal, in its Order dated 20 October 2017 subsequently relisted the Hearing for 22 February 2017 and listed the matter for an Administrative mention on 8 December 2017 in which each party must advise the Tribunal in writing:

- whether the matter is resolved or is proceeding to a hearing;
- if that party is ready for a hearing;
- whether the further hearing scheduled on 22 February 2018 is likely to proceed;
- whether any other procedural orders are required; and
- whether a further directions hearing or mention is requested.

If Council agrees to support the recommendation below then a planning permit will be issued at the direction of VCAT which contains, unchanged, all of the conditions in the recommendation section of this report.

Alternatively, should Council determine to not support the issue of a permit, then the application will proceed to a VCAT merits hearing based on the original application plans. The original development plans refused by Council are included as Attachment 1.

Further clarification around the original concept is provided in Attachment 2 alongside site imagery information.

2. **Policy implications**

**Planning permit requirements**

Clause 43.02-2 (Design and Development Overlay Schedule 1) – A permit is required to construct a building or construct or carry out works, including the construction of a roof deck above the second storey of a building. A building height must not exceed 2 storeys (excluding an attic or basement). Buildings and works must be constructed in accordance with any requirements in a schedule to this overlay.

3. **Stakeholder Consultation**

**External referrals**

There were no external referrals required to be made in accordance with Clause 66 of the Bayside Planning Scheme.

**Internal referrals**

The application was not required to be referred to any internal departments within Council.

**Public notification**

The application was not advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 because it was the Planning Department’s decision to refuse the application.

The Tribunal was informed that the application was not advertised by Council and there was no instruction by the Tribunal to undertake notification.

Notwithstanding, Council considers that the proposed works would not cause unreasonable material detriment to the adjoining properties. This is because there is an existing roof deck and the proposal seeks to replace this roof deck with a new structure.

The roof deck is designed to limit unreasonable overlooking and the substituted
amended plans demonstrate compliance with the Design and Development Overlay Schedule 1 requirements.

Consultation meeting

As a result of the above, a consultation meeting was not required.

4. **Recommendation**

That Council:

Determines to **Support** the amended plans submitted in respect of Planning Application 16/0645 (VCAT Reference P376/2017) for the land known and described as 25 Glyndon Avenue, Brighton, for extension to a roof deck above the second storey of the existing dwelling in a Design and Development Overlay Schedule 1 in accordance with the endorsed plans and subject to the following conditions:

1. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason (unless the Bayside Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.

2. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.

3. Before occupation, any screening measures designed to limit overlooking must be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

4. This permit will expire if one of the following circumstances applies:

   a) The development is not started within two years of the date of this permit.

   b) The development is not completed within four years of the date of this permit.

   In accordance with Section 69 of the Planning and Environment Act 1987, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.

**Permit Notes:**

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.

- This permit application was not assessed against the provisions of Clause 54 – One Dwelling on a Lot (ResCode) of the Bayside Planning Scheme. It is the responsibility of the applicant/owner to appoint a Registered Building Surveyor to determine compliance of the endorsed plans associated with the issue of this Planning Permit against Part 4 of the Building Regulations 2006. Non-compliance with any regulation will require dispensation from Council’s Building Department.

5. **Council Policy**

**Council Plan 2017-2021**

Relevant strategic objectives of the Council plan include:

- Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.
Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.

Where a range of housing types is provided to accommodate the changing needs of the community, enabling people to age in place and providing opportunities for young adults and families to live and remain in the municipality.

Relevant strategies of the Council plan include:
- Make discretionary planning controls stronger, by advocating for Council’s planning and urban design objectives to state government.

**Bayside Planning Scheme**
- Clause 9 Plan Melbourne
- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 22.06 Neighbourhood Character Policy Precinct C2
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 1)
- Clause 54 One Dwelling on a Lot
- Clause 65 Decision Guidelines

### 6. Considerations

The proposal seeks retrospective approval for an extension to an existing a roof deck above a second storey of the existing dwelling. The application proposes an increase to the footprint of the existing roof deck and seeks to construct an unenclosed flat roof pavilion and a lift shaft and stairwell to the west.

The subject site is located within the Neighbourhood Residential Zone Schedule 3, however given the lot is greater than 500m², a planning permit is not required for the proposed works under the zone.

Pursuant to Clause 43.02-2 (Design and Development Overlay Schedule 1), a permit is required to construct a building or construct or carry out works including the construction of a roof deck.

Pursuant to Schedule 2.0 of the Design and Development Overlay Schedule 1 (DDO1), a roof deck is defined as an area designed and used as private open space that is located above the upper storey of a building.

A roof deck must:
- *Be designed and constructed of materials that integrate with the architectural style and form of the building.*
- *Be set back at least 2 metres from the roof edge immediately below on all sides to minimise the visual impact on the street, coastal environs and adjoining properties.*
- *Be designed to limit views into secluded private open space and habitable room windows of adjacent dwellings.*
- Not include any structures or elements that exceed a height of 1.7 metres, apart from an access structure.
- Be accessed by a structure that is designed and located to have minimal impact on the street and adjoining properties, does not enclose any useable floor space and does not exceed 2.4 metres in height (measured from floor level at the point of access onto the roof deck).

As mentioned earlier in this report, Council determined to refuse Planning Application 2016/645/1 on the basis that the proposed structure and associated works failed to meet the roof deck permit requirements of the DDO1.

In light of the modifications demonstrated in the amended plans, Council officers are now satisfied that the proposal meets the requirements of the DDO1 having particular regard to the unenclosed foundations and proposed setbacks.

The amended plans illustrate that the proposal is setback a minimum of 2 metres from the roof edge of the existing dwelling immediately below on all sides. While the proposed access area remains at a height that exceeds the maximum allowable height of 2.4 metres, Council is satisfied that the proposal now meets the exemption of the DDO1 which states the following:

*A permit cannot be granted to construct a building or construct or carry out works which are not in accordance with the above requirements except that a permit may be granted to replace a building or works existing before 24 February 2000 which does not meet the height requirements of this clause.*

In addition, the amended plans now demonstrate that the structure is unenclosed, by way of the deletion of windows and doors. The accessway has an enclosed area adjacent to the lift and stairwell, however due to the dimensions of this space, it would not be considered to be usable floor space.

In light of the above, the amended plans satisfactorily address the grounds of refusal and consequently, the proposal is worthy of Council support.

**Support Attachments**

1. Decision Plans ↓
2. Original Plans and Site Imagery ↓
3. VCAT Concept Plan ↓
4. Without Prejudice Plans ↓
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<th>Page</th>
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<td>P14 - P20</td>
<td>DESIGN OBJECTIVES/DESIGN DEVELOPMENT OVERLAY D001</td>
<td>1. PROTECT AND ENHANCE THE FORESHORE ENVIRONMENT AND VIEWS OF BAYSIDE FROM PORT PHILIP BAY</td>
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<td>2. RELATE THE SCALE AND FORM OF ANY NEW DEVELOPMENT TO THE LANDFORM OF THE COAST</td>
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<td>3. MAINTAIN A PEDESTRIAN SCALE ALONG BEACH ROAD</td>
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<td>5. PROTECT THE FORESHORE FROM OVERSHADOWING</td>
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<td>6. MANAGE THE INCREASED PRESSURE FOR HIGHER BUILDINGS ALONG THE COAST</td>
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</table>
DESIGN OBJECTIVES

Design Objectives

Design Objectives - Design Development Overlay (DDO) for Bayside from Port Philip Bay to the Victorian Coastal Strategy 2014.

The design objectives are as follows:

1. To protect and enhance the foreshore environment and views of Bayside from Port Philip Bay
2. To relate the scale and form of any new development to the landform of the coast
3. To maintain a pedestrian scale along Beach Road
4. To maintain consistency with urban design and development objectives in the Bayside Coastal Strategy 1997 and the Victorian Coastal Strategy 2014
5. To protect the foreshore from overshadowing
6. To manage the increased pressure for higher buildings along the coast
7. To protect the amenity and privacy of residential properties

These objectives will be responded to within the following pages of this report to provide a substantiated understanding of how the architectural design of this building has enhanced the local neighbourhood architectural character.
2.1 DESIGN OBJECTIVES

PROJECT AND ENHANCE THE FORESHORE ENVIRONMENTS AND VIEWS OF BAYSIDE FROM PORT PHILIP BAY
2.2 DESIGN OBJECTIVES
RELATE TO THE SCALE AND FORM OF ANY NEW DEVELOPMENT TO THE LANDFORM OF THE COAST

2.3 DESIGN OBJECTIVE
TO MAINTAIN A PEDESTRIAN SCALE ALONG BEACH ROAD

Beach Road is a mean monotonous space away from the City Road Avenue. Therefore, the Objective is not applicable.
2.4 DESIGN OBJECTIVES

TO MAINTAIN CONSISTENCY WITH URBAN DESIGN AND DEVELOPMENT OBJECTIVES IN THE BAYSIDE COASTAL STRATEGY 1997 AND THE VICTORIAN COASTAL STRATEGY 2014.

The Kaurna Guidelines provide a foundation for the coastal management and development of the coastal environment in terms of its historical, cultural and ecological significance. The Guidelines are a comprehensive framework of direction that should be applied when planning coastal development. The Planning and Development Scheme (PDS) of the council and the Victorian Building Code (VBC) have been developed to provide a consistent and comprehensive approach to coastal development and infrastructure development.

The planning objectives are designed to complement the coastal environment and to ensure consistency of application along the whole of the coastline.

- The proposed coastal buildings should be designed and located to complement the surrounding landscape and environment.
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DESIGN OBJECTIVES

2.6

To manage the increased pressure for higher buildings along the coast.

The height of the roof pavilion does not exceed the height of the previous structure. We believe that the new structure, though it requires additional efforts and effective planning, actually reflects the prevalent height. Please refer to the proposed and discussed plans for details.
2.7

DESIGN OBJECTIVE

2.7.1

TO PROTECT THE AMENITY AND PRIVACY OF RESIDENTIAL PROPERTIES

The report aims to assess and address concerns of residential properties near the proposed development. The proposal involves the development of new residential properties in the area.

The proposal has been revised to accommodate the concerns of the neighboring residential properties. The revised proposal will be presented for consideration at the next meeting.

The revised proposal includes:

- Improved landscaping
- Enhanced privacy
- Increased setbacks

The revised proposal will be presented for consideration at the next meeting.
3

DESIGN RESPONSE

INTRODUCTION

As evaluations in our Site Analysis and Photographic Surveying, the neighbouring context characterises a rather eclectic ensemble of buildings, each having a different scale of building and height. The proposed development is modest and respectful in keeping with the adjacent buildings and complements the existing building well. The new development is designed to enhance the visual appeal of the existing building, with streets that allow for p...</noscript>
3.1 DESIGN RESPONSE

ROOF DECK REQUIREMENTS DD01

The following are conditions that are outlined in the DDD for a permit to be granted for a roof deck:

- The design and construction of materials that integrate with the architectural style and form of the building.
- All deck doors must be designed and constructed of materials that are visually integrated with the existing property and not detract from the overall appearance.
- The design of the roof deck components are being mortared, extended, and encased in the same style as the existing structure.
- The roof deck access must use the same finish and materials as the existing structure.
- The adjacent building must use the same finish and materials as the existing structure.
- The roof deck must be designed to limit views into the interior spaces of the house. The deck is designed to be at least 2.0 meters (7 feet) above the level of the street on the North boundary and 2.5 meters (8 feet) above the level of the street on the East boundary.
- The design plan should provide adequate separation from an adjacent building. The roof deck should be at least 3.0 meters (10 feet) from an adjacent building.
DESIGN RESPONSE

3.2

ROOF DECK REQUIREMENTS DDO1

- Not include any structures or elements that exceed a height of 1.7 metres, apart from an access structure.
  Pursuant to the DDO1 Clause below:

  "A permit cannot be granted to construct a building or construct or carry out works which are not in accordance with the above requirements except that a permit may be granted to replace a building or works existing before 24 February 2000, which does not meet the height requirements of the clause."

  Council may in this case grant consent to this structure even though it does not meet the height requirement, due to the existence of the previous structure in February 2000.

- Be accessed by structure that is designed and located to have minimal impact on the street and adjoining properties, does not enclose any usable floor space and does not exceed 2.4 metres in height (measured from floor level at the point of access onto the roof deck).

  The proposal does not exceed 2.4 metres in height, and pursuant to the DDO1 Clause below:

  "A permit cannot be granted to construct a building or construct or carry out works which are not in accordance with the above requirements except that a permit may be granted to replace a building or works existing before 24 February 2000, which does not meet the height requirements of the clause."

  This should satisfy the requirement.

- NOTE: The issue of jurisdiction to grant consent is further explained in Town planning report, Design Response and addressed through the Design Objectives of DDO1.
3.3 DESIGN RESPONSE

ROUP ALTERNATIVE STUDY

Our site study revealed that along the coastal fringe and taking into consideration the heritage of the area, architects, materials, and configuration, in tandem with the importance of maintaining the local residential buildings, the site was considered an option that is in accordance with the guidelines and the ethos of the area.

In comparison, this may not be the best solution for the local environment. As such, further consideration is required, taking into account the urban fabric and the context of the area. It is expected that further study will be required to evaluate the feasibility and appropriateness of this option.
The proposed roof pavilion is a composition of a slim roofline profile atop a compact rectangular zinc form, compared to the bulbous, asymmetrical attic option or the former Neo-Georgian structure, we consider this an improvement and better response for the neighbourhood. As previously established in this report the proposal aims to improve on the previous Neo-Georgian structure by means of appropriate material selection, zinc, and compact configuration of the existing, that is in keeping with the existing recently renovated house and environment. The contemporary response is complementary to the local surroundings, and presents a neat and elegant response, that is not verbose nor bulky. It is an improvement on noise and privacy control without any additional shadowing.
1. **Purpose and background**

To report an in-principle agreement reached by all parties at a VCAT Compulsory Conference for the construction of a six storey building above a basement level containing 72 dwellings and a reduction in the provision of visitor car parking spaces across three lots with a combined area of 1,725 square metres at 1-5 Reynolds Street, Hampton East.

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Reynolds Street Developments Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>22 December 2016 (Amended)</td>
</tr>
</tbody>
</table>

At the Planning and Amenity Committee Meeting held on 18 July 2017 Council considered an application for the construction of a six storey building above a basement level containing 72 dwellings and a reduction in the provision of visitor car parking spaces.

Council determined to refuse the proposal on the following grounds:

1. **The proposed development by virtue of its height, scale and siting fails to achieve the purpose of Clause 32.07 (Residential Growth Zone) which seeks to provide housing at increased densities in buildings up to and including four storey buildings and to encourage a scale of development that provisions a transition between areas of more intensive use and development and other residential areas.**

2. **The proposal fails to provide the required number of visitor parking spaces pursuant to Clause 52.06 and will have an unreasonable impact on amenity of the locality.**

3. **The proposal fails to ensure that vehicles can safely egress from the site and manoeuvre within the site in accordance with Clause 52.06 of the Bayside Planning Scheme.**

4. **The proposal fails to appropriately respond to the strategic direction as envisaged by the Hampton East (Moorabbin) Structure Plan.**

The applicant lodged an appeal under Section 77 of the Planning and Environment Act 1987 with the Victorian Civil and Administrative Tribunal (VCAT) against Council’s decision to refuse to grant a planning permit.

At the VCAT Compulsory Conference held on 25 October 2017, attended by the permit applicant, Council Officers and four objector parties to the appeal, an in-principle agreement was reached between all parties.

The outcome was to:

- Delete a level from the building (now a five storey building);
- Decrease the number of dwellings to between 50 and 53, depending in final internal fitout (from 72);
- Merging of apartments to create more 3 bedroom apartments and a reduction in smaller 1 and 2 bedroom apartments (exact configuration not yet finalised);
- Increase the setback of level 4 from the western boundary to 13m (from 9m);
• Increase the setback of level 2 from the western boundary to ensure compliance with Standard B17. This will require an increased setback to approximately 5.1m (from 2.5m);
• Increase in the north-western setback on Levels 2 and 3 to adjoining residential properties
• Removal of all car stackers and construction of an additional level of basement. Provision of 10 visitor car parking spaces in the basement in accordance with the statutory requirements of Clause 52.06 and a surplus in the number of resident spaces required under Clause 52.06 due to the reduction in the number of apartments in the building. (i.e. no car park waiver will be required);
• Recess the building 3.0m from the front boundary, with a 1.0m wide landscape strip along the site frontage to allow for deep root vegetation planting to Reynolds Street (was previously built along the front boundary with landscaping only available via small planter boxes);
• Provision of an acoustic fence along part western boundary (11m length) to address vehicle noise;
• Services to locate on the roof, behind the lift overrun so as to reduce visual prominence.

The agreement was that a planning permit could be issued for the proposal subject to conditions. The plans tabled at the VCAT Compulsory Conference are provided at Attachment 1 and were used to assist with discussion at the conference and in forming the recommendation outlined in section 4 of this report. These plans have not been formally substituted.

If Council agrees to support the recommendation below then a planning permit will be issued by VCAT which contains, unchanged, all of the conditions contained in the recommendation of this report. It is imperative to note that the conditions tabled below cannot be varied or changed unless at the request of VCAT; any changes to these conditions will require Council to attend the three (3) day hearing date set for the 18th - 20th December 2017.

The original development plans refused by Council are included as Attachment 2.

Alternatively, should Council determine to not support the issue of the permit, then the application will proceed to a VCAT merits hearing (3 days) on 18th December 2017 based on the original application plans.

2. Policy implications

Planning permit requirements

Clause 32.07-5 (Residential Growth Zone Schedule 1) – Construction of two or more dwellings on a lot.

Clause 43.02-2 (Design and Development Overlay Schedule 2) - Construct a building or carry out works not otherwise exempt.

Clause 52.06-3 (Car parking) - Permit required to reduce the number of car parking spaces required under Clause 52.06-5.

3. Stakeholder Consultation

External referrals

The application was referred to the following authorities:

<table>
<thead>
<tr>
<th>Referral Authority</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public Transport Victoria</td>
<td>No objection</td>
</tr>
</tbody>
</table>
Internal referrals

The application was referred to the following Council departments for comment:

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strategic Planning</td>
<td>No objection.</td>
</tr>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>Conditions required.</td>
</tr>
<tr>
<td>Drainage</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Waste Management</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Open Space Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
</tbody>
</table>

Public notification

The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and seven objections were received. The following concerns were raised:

- Over-development / inappropriate density;
- Inconsistent with Neighbourhood Character;
- Overlooking;
- Overshadowing;
- Shadowing of solar panels;
- Parking congestion and traffic safety issues; and
- Noise from the vehicle accessway.

Consultation meeting

VCAT arranged and held a Compulsory Conference on 25 October 2017. The applicant, Council representative and the four objecting parties were in attendance. The applicant tabled ‘without prejudice’ plans, and an in-principle agreement was reached by all parties in attendance.

4. Recommendation

That Council:

Determines to Support the application Issues under the provisions of the Bayside Planning Scheme in respect of Planning Application 2016/596/1 for the land known and described as 1, 3 & 5 Reynolds Street, Hampton East, for the construction of a multi storey development in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans (TP00-TP12, Rev L) but modified to show:

   a) Modified to show changes in revision M and further modified at the Compulsory Conference conducted on 25 October 2017.
b) Removal of the visitor bicycle parking adjacent to the booster and service metres and its replacement with a landscaped planter box. The planter box should not exceed a height of 800mm.

c) Windows on the top level on the southern and eastern elevations framed with dark extruded metal frames.

d) All highlight windows along the east elevation to be increased in size to a minimum window height of 1.7 metres to provide increased passive surveillance over the public realm and improvement internal amenity to the rooms.

e) Sightlines for vehicles entering and exiting the property in accordance with AS2890.1.

f) Urban artwork on the northern section of the eastern elevation reflecting Melbourne’s laneway culture. The section is made-up of those sections of wall underneath Dwellings 104 & 105 and to the north of the balconies of Dwellings 104 & 204.

g) A schedule of construction materials, external finishes and colours (incorporating for example paint samples), including for screens provided on the balconies and roof of the building.

h) Location of all plant and equipment, including hot water services and air conditioners etc. Plant equipment is to be located away from habitable room windows of dwellings and the adjoining properties habitable rooms.

i) Water Sensitive Urban Design measures in accordance with Condition 7 of this permit.

j) A Landscaping Plan in accordance with Condition 11 of this permit.

k) A Public Realm Improvement Plan in accordance with Condition 22 of this permit.

l) A Waste Management Plan in accordance with Condition 19 of this permit.

m) Height of balustrades for dwellings fronting Reynolds Street to be 1.2m high. All to the satisfaction of the Responsible Authority.

2. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

3. Before the occupation of the site commences or by such later date as is approved in writing by the Responsible Authority, all buildings and works must be carried out and completed to the satisfaction of the Responsible Authority.

4. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.

5. All pipes (except downpipes), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

6. Before occupation, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard B22 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

7. Prior to the endorsement of plans pursuant to Condition 1, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed
by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must show:

a) The type of water sensitive urban design stormwater treatment measures to be used.

b) The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaped areas.

c) Design details of the water sensitive urban design stormwater treatment measures, including cross sections.

These plans must be accompanied by a report from an industry accepted performance measurement tool which details the treatment performance achieved and demonstrates the level of compliance with the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999.

8. The water sensitive urban design stormwater treatment system as shown on the endorsed plans must be retained and maintained at all times in accordance with the Urban Stormwater - Best Practice Environmental Management Guidelines, CSIRO 1999, to the satisfaction of the Responsible Authority.

9. Before the occupation of the development starts, the area(s) set aside for vehicle parking and accessways must be constructed, drained and line marked to the satisfaction of the Responsible Authority. Such areas must be kept available for these purposes at all times.

10. Before the occupation of the development starts, new or altered vehicle crossing(s) servicing the development must be constructed to the satisfaction of the Responsible Authority and any existing disused or redundant crossing or crossing opening must be removed and replaced with footpath/nature strip/kerb and channel, to the satisfaction of the Responsible Authority.

11. Prior to the endorsement of plans pursuant to Condition 1, a detailed Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show:

a) A planting schedule of any proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.

b) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.

c) Details of surface finishes of pathways and driveways.

d) Appropriate maintenance and irrigation systems, including water volumes to be supplied, for the planters shown in the landscape plan.

12. Before the occupation of the development the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

13. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including any dead, diseased or damaged plants are to be replaced.

14. Soil excavation within the nature strip must not take place within 3m of the Acer negundo street tree asset.

15. Before the development starts, tree protection fencing is to be established around the street trees marked for retention prior to demolition and maintained until all works on site are complete. The fencing is to be constructed and secured so its
positioning cannot be modified by site workers. The fencing is to encompass the entire naturestrip under the drip line of the tree. The Tree Protection Zone is to be established and maintained in accordance with AS 4970-2009. During construction of the crossover, tree protection fencing may be reduced to the edge of the Council approved crossover to facilitate the construction of the crossover.

16. Any installation of services and drainage within the Tree Protection Zone of the street tree to be retained must be undertaken using root-sensitive, non-destructive techniques.

17. Before the development starts, the permit holder must apply to Council for the Legal Point of Discharge for the development from where stormwater is drained under gravity to the Council network.

18. Before the development starts, detailed plans indicating, but not limited to, the method of stormwater discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council’s Infrastructure Assets Department.

19. Prior to the endorsement of plans pursuant to Condition 1, a Waste Management Plan must be submitted to and approved by the Responsible Authority. The Waste Management Plan must clearly indicate that waste collection is to be via a private contractor, not Council, and include:

   a) Dimensions of storage waste areas.
   b) Storm water drains in storage areas should be fitted with a litter trap.
   c) The number and size of bins to be provided.
   d) Facilities for bin cleaning.
   e) Method of waste and recyclables collection.
   f) Types of waste for collection, including colour coding and labelling of bins.
   g) Hours of waste and recyclables collection (to correspond with Council Local Laws and EPA Noise Guidelines). Waste collection must not take place between 6am-10am and 3pm-7pm on weekdays.
   h) Method of hard waste collection.
   i) Method of presentation of bins for waste collection.
   j) Sufficient headroom within the basement to accommodate waste collection vehicles.
   k) Sufficient turning circles for the waste collection vehicles to enter and exit the site in a forward direction.
   l) Strategies for how the generation of waste and recyclables will be minimised.
   m) Compliance with relevant policy, legislation and guidelines.

When approved, the plan will be endorsed and will then form part of the permit. Waste collection from the development must be in accordance with the plan, to the satisfaction of the Responsible Authority.

20. All sustainability measures identified in the Sustainable Management Plan, prepared by Ark Resources, must be implemented and development works undertaken in accordance with the Sustainable Management Plan, to the satisfaction of the Responsible Authority.
21. The sustainability measures must be maintained to the satisfaction of the Responsible Authority, including the replacement of any items required to produce / maintain those items.

22. Prior to the endorsement of plans pursuant to Condition 1, a detailed Public Realm Improvement Plan must be submitted to and approved by the Responsible Authority. The plan must show:
   a) The construction of a concrete footpath on the northern side of Reynolds Street running from the laneway to Highbury Avenue in accordance with Council's standard drawings.
   b) The installation of bicycle parking on the nature strip in front of the site.
   c) The removal of the power pole at the front of the property.
   d) The relocation of any Council assets or infrastructure required on Reynolds Street as a direct result of this development.
   e) The reconstruction of the laneway adjacent to the east of the property with bluestone kerb, channel and centre strip and intervening asphalt treatment, along with raised perpendicular strips of bluestone to act as traffic calming measures.
   f) Planting of trees on the nature strip.
   g) Introduction of street furniture (if necessary).
   h) Introduction of parking signs, with “no stopping” sign to be provided from 9m to the west of the corner of Reynolds Street and the laneway.

All to the satisfaction of the Responsible Authority.

23. Before the development starts, a Construction Management Plan (CMP), to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit and shall thereafter be complied with. The CMP must specify and deal with, but not be limited to the following as applicable:
   a) A detailed schedule of works including a full project timing.
   b) A traffic management plan for the site, including when or whether any access points would be required to be blocked, an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services, preferred routes for trucks delivering to the site, queuing/sequencing, excavation and swept-path diagrams.
   c) The location for the parking of all construction vehicles and construction worker vehicles during construction.
   d) Delivery of materials including times for loading/unloading, unloading points, expected frequency and details of where materials will be stored and how concrete pours would be managed.
   e) Proposed traffic management signage indicating any inconvenience generated by construction.
   f) Fully detailed plan indicating where construction hoardings would be located.
   g) A waste management plan including the containment of waste on site: disposal of waste, stormwater treatment and on-site facilities for vehicle washing.
h) Containment of dust, dirt and mud within the site and method and frequency of clean up procedures in the event of build-up of matter outside the site.

i) Site security.

j) Public safety measures.

k) Construction times, noise and vibration controls.

l) Restoration of any Council assets removed and/or damaged during construction.

m) Protection works necessary to road and other infrastructure (limited to an area reasonable proximate to the site).

n) Remediation of any damage to road and other infrastructure (limited to an area reasonably proximate to the site).

o) An emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced.


q) All contractors associated with the construction of the development must be made aware of the requirements of the Construction Management Plan.

r) Details of crane activities, if any.

24. Prior to endorsement of the plan/s required under Condition x of this permit, the permit holder must pay a drainage levy in accordance with the amount specified under the Bayside Drainage Development Contributions Plan. The levy amount payable will be adjusted to include the Building Price Index applicable at the time of payment.

The levy payment shall be submitted to Council with the Bayside Drainage Contributions Levy Charge Sheet and it must include the Building Price Index applicable at the time of payment.

25. This permit will expire if one of the following circumstances applies:

a) The development is not started within two years of the date of this permit.

b) The development is not completed within four years of the date of this permit.

In accordance with Section 69 of the Planning and Environment Act 1987, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.

Permit Notes

- Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.

- Residents of the proposed development shall not be entitled to any Council parking permits for residents.

- Before the development starts, the applicant must pay $1,665.10 to the Responsible Authority for the removal and replacement of an existing street tree. This amount has been determined in accordance with Councils current policy for the removal of street tree(s). This amount may be increased by the Responsible Authority if an extension of time to commence work is granted and the amenity
value of the street tree has increased. The Responsible Authority, or a contractor or agent engaged by the Responsible Authority, must undertake the removal and replacement of the street tree. Any replacement planting will be at the discretion of the Responsible Authority.

5. **Council Policy**

**Council Plan 2017-2021**

Relevant strategies of the Council plan include:

- Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.
- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.
- Where a range of housing types is provided to accommodate the changing needs of the community, enabling people to age in place and providing opportunities for young adults and families to live and remain in the municipality.

Relevant strategies of the Council plan include:

- Make discretionary planning controls stronger, by advocating for Council’s planning and urban design objectives to state government.

**Bayside Planning Scheme**

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 17 Economic Development
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 21.07 Economic Development
- Clause 21.09 Transport and Access
- Clause 21.11 Local Areas
- Clause 22.06 Neighbourhood Character Policy
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.07 Residential Growth Zone
- Clause 43.02 Design and Development Overlay (Schedule 2)
- Clause 52.06 Car Parking
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines
6. Considerations

In considering this application, regard has been given to the State and Local Planning Policy Frameworks, the provisions of the Bayside Planning Scheme, objections received and the individual merits of the application.

6.1 Amended Plans Assessment

This report will detail how the amended plans at Attachment 1 respond to the previous Grounds for Refusal and relevant planning policies.

Ground for Refusal 1

The proposed development by virtue of its height, scale and siting fails to achieve the purpose of Clause 32.07 (Residential Growth Zone) which seeks to provide housing at increased densities in buildings up to and including four storey buildings and to encourage a scale of development that provisions a transition between areas of more intensive use and development and other residential areas.

The reasoning behind this ground has been satisfied.

Whilst a technical non-compliance of this ground would remain in that the building would be five storeys (though importantly, reduced from six storeys), the changes to the plans address the spirit, or intent of this ground. This is discussed as follows:

Firstly, the four storey and 14.5m maximum height limits are discretionary, and variations are able to be considered subject to the overall purpose and intent of the zone being met.

Importantly, the zone encourages a ‘transition between areas of more intensive areas’ within its overall purpose. This becomes relevant as the changes to the plans delete an entire storey from the proposal, and also significantly increase the building setback from the western boundary (residential land) so as to provide a much more gradual transition in scale from commercial (to the north and east) and residential (to the south and west).

The resulting outcome is a building that would appropriately integrate with its surrounds, noting that Council has recently chosen to adopt discretionary five storey height limits for the commercial land that sits to the immediate north and east.

Ground for Refusal 2

The proposal fails to provide the required number of visitor parking spaces pursuant to Clause 52.06 and will have an unreasonable impact on amenity of the locality.

This ground has been satisfied in full, with the application now showing full compliance with the car park requirements at clause 52.06 (and in fact the proposal will provide a surplus with respect to the required number of spaces).

Ground for Refusal 3

The proposal fails to ensure that vehicles can safely egress from the site and manoeuver within the site in accordance with Clause 52.06 of the Bayside Planning Scheme.

This ground has been satisfied in full, with the application now showing full compliance with the vehicle manoeuvering standards, and car park / access dimensional requirements stipulated at clause 52.06.

Ground for Refusal 4

The proposal fails to appropriately respond to the strategic direction as envisaged by the Hampton East (Moorabbin) Structure Plan.

The subject site sits within precinct 3 of the Hampton East Structure Plan, where at a recent Council meeting it was decided to undertake further strategic work to ascertain
what the appropriate heights for this precinct might be. This ground for refusal is therefore redundant as there is somewhat of a policy void at the present time.

Notwithstanding, many of the opponents to the previously proposed height limits were involved in the forming of this consent order and agreed to the changes hereby tabled.

7.0 Conclusion

As described above, the changes to the plans are significant, and sufficiently address the original grounds for refusal.

In addition to responding to the grounds, there are significant improvements over and above these grounds that substantially reduce the impact this proposal will have on neighbouring amenity. These include (but are not limited to) the complete removal of car stackers and increased setbacks from the sensitive residential interfaces to the north and west.

Whilst the building would remain at five storeys, this is only 1.0m above the preferred (as opposed to mandatory) height limit of the zone and this is not of such consequence that would warrant progression to a full merits hearing – particularly given that agreements reached between the applicant and the objecting parties would be retracted.

The overall development is considered to show an appropriate level of compliance with the Bayside Planning Scheme.

Support Attachments

1. Amended Plans
2. Refused Plans
ATTACHMENT B

VCAT CC 25/10/17
P1793/2017

Item 4.11 – Matters of Decision
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5. Confidential Business

Nil

As Chief Executive Officer, I hereby declare that the contents of this agenda relating to the closed meeting of the ordinary meeting of Council are deemed confidential and accordingly members of Council are reminded that the contents of the agenda are not to be disclosed to any other party.

Adrian Robb

Chief Executive Officer